



1997

# ***Illinois Register***

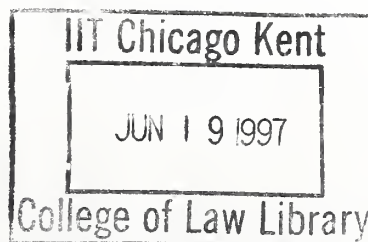
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## **Rules of Governmental Agencies**

Volume 21, Issue 24 — June 13, 1997

Pages 6943 - 7621

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## INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

## REGISTER PUBLICATION SCHEDULE 1997

Material Rec'd after Noon on:	And before Noon on:	Will be in Issue #:	Published on:	Material Rec'd after Noon on:	And before Noon on:	Will be in Issue #:	Published on:
Dec. 24, 1996	Dec. 31, 1996	1	Jan. 3, 1997	July 1, 1997	July 8, 1997	28	July 11, 1997
Dec. 31, 1996	Jan. 7, 1997	2	Jan. 10, 1997	July 8, 1997	July 15, 1997	29	July 18, 1997
Jan. 7, 1997	Jan. 14, 1997	3	Jan. 17, 1997	July 15, 1997	July 22, 1997	30	July 25, 1997
Jan. 14, 1997	Jan. 21, 1997	4	Jan. 24, 1997	July 22, 1997	July 29, 1997	31	Aug. 1, 1997
Jan. 21, 1997	Jan. 28, 1997	5	Jan. 31, 1997	July 29, 1997	Aug. 5, 1997	32	Aug. 8, 1997
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Feb. 11, 1997	Feb. 18, 1997	8	Feb. 21, 1997	Aug. 19, 1997	Aug. 26, 1997	35	Aug. 29, 1997
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Mar. 4, 1997	Mar. 11, 1997	11	Mar. 14, 1997	Sept. 9, 1997	Sept. 16, 1997	38	Sept. 19, 1997
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Mar. 18, 1997	Mar. 25, 1997	13	Mar. 28, 1997	Sept. 23, 1997	Sept. 30, 1997	40	Oct. 3, 1997
Mar. 25, 1997	Apr. 1, 1997	14	Apr. 4, 1997	Sept. 30, 1997	Oct. 7, 1997	41	Oct. 10, 1997
Apr. 1, 1997	Apr. 8, 1997	15	Apr. 11, 1997	Oct. 7, 1997	Oct. 14, 1997	42	Oct. 17, 1997
Apr. 8, 1997	Apr. 15, 1997	16	Apr. 18, 1997	Oct. 14, 1997	Oct. 21, 1997	43	Oct. 24, 1997
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Apr. 29, 1997	May 6, 1997	19	May 9, 1997	Nov. 4, 1997	Nov. 10, 1997*	46	Nov. 14, 1997
May 6, 1997	May 13, 1997	20	May 16, 1997	Nov. 10, 1997*	Nov. 18, 1997	47	Nov. 21, 1997
May 13, 1997	May 20, 1997	21	May 23, 1997	Nov. 18, 1997	Nov. 25, 1997	48	Dec. 1, 1997*
May 20, 1997	May 27, 1997	22	May 30, 1997	Nov. 25, 1997	Dec. 2, 1997	49	Dec. 5, 1997
May 27, 1997	June 3, 1997	23	June 6, 1997	Dec. 2, 1997	Dec. 9, 1997	50	Dec. 12, 1997
June 3, 1997	June 10, 1997	24	June 13, 1997	Dec. 9, 1997	Dec. 16, 1997	51	Dec. 19, 1997
June 10, 1997	June 17, 1997	25	June 20, 1997	Dec. 16, 1997	Dec. 23, 1997	52	Dec. 26, 1997
June 17, 1997	June 24, 1997	26	June 27, 1997	Dec. 23, 1997	Dec. 30, 1997	1	Jan. 2, 1998
June 24, 1997	July 01, 1997	27	July 7, 1997*	Dec. 30, 1997	Jan. 6, 1998	2	Jan. 9, 1998

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

\* Monday



## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Pupil Transportation
- 2) Code Citation: 23 Ill. Adm. Code 275
- 3) Section Numbers:  
     275.10 Proposed Action:  
     275.60 Amendment  
     275.100 Repeal  
     275.100 Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.6

5) A Complete Description of the Subjects and Issues Involved:

These amendments respond to P.A. 89-151, which was enacted in 1995 and requires school districts to calculate their fully allocated costs for transportation. The purpose of that calculation is to permit comparison of districts' costs with those of vendors who wish to bid on the provision of transportation services. Language is being added to Section 275.100 to acknowledge this new obligation on the part of school boards.

We are also taking advantage of this opportunity to streamline other parts of these rules. The definition of "school bus" in the Vehicle Code has changed, and it is preferable to reference the statutory definition rather than repeat it. In addition, Section 275.60 is being repealed because various parts of the Vehicle Code convey all this information.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? The rules do not contain an incorporation by reference under Section 5-75 of the Illinois Administrative Procedure Act.
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a state mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl  
 Agency Rules Coordinator  
 Illinois State Board of Education  
 100 North First Street  
 Springfield, IL 62777

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENTS

(217) 782-0541

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: It was included on the January 1996 agenda.

The full text of the proposed amendments begins on the next page:

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 23: EDUCATION AND CULTURAL RESOURCES

## SUBTITLE A: EDUCATION

## CHAPTER I: STATE BOARD OF EDUCATION

## SUBCHAPTER h: TRANSPORTATION

## PART 275

## PUPIL TRANSPORTATION

Section	
275.10	Definition of a School Bus
275.20	Routing
275.30	Annual Medical Examination and Certificate (Repealed)
275.40	Permit Application Process (Repealed)
275.50	Hearings (Repealed)
275.60	Vehicles Designed to Carry Nine Passengers or Less Excluding the Driver (Repealed)
275.70	Issuance of Permit (Repealed)
275.80	Training
275.90	Bus Safety Training for Students
275.100	Responsibility of Local School Boards
275.110	Operating a School Bus
275.120	Special Education

AUTHORITY: Implementing Section 27-26 and Article 29 of the School Code [105 ILCS 5/27-26 and Art. 29], Section 1-182 of the Illinois Vehicle Code [625 ILCS 5/1-182], Sections 6-104(b) and (d) and 6-106.1 of the Illinois Driver Licensing Law [625 ILCS 5/6-104(b) and (d) and 6-106.1], and Sections 11-406, 11-1202, and 11-1414 of the Illinois Rules of the Road [625 ILCS 5/11-406, 11-1202, and 11-1414] and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.6] and Section 12-812(b) of the Illinois Vehicle Equipment Law [625 ILCS 5/12-812(b)].

SOURCE: Illinois School Bus Transportation Rules and Regulations, amended April 18, 1974; rules repealed, new rules adopted at 2 Ill. Reg. 37, p. 201, effective September 25, 1978; codified at 7 Ill. Reg. 16507; amended at 13 Ill. Reg. 1532, effective January 23, 1989; emergency amendment at 14 Ill. Reg. 6411, effective April 17, 1990, for a maximum of 150 days; emergency expired September 14, 1990; amended at 14 Ill. Reg. 17954, effective October 18, 1990; amended at 19 Ill. Reg. 16545, effective December 5, 1995; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 275.10 Definition of a School Bus

The definition of a school bus shall be as set forth in Section 1-182 of the Illinois Vehicle Code [625 ILCS 5/1-182].

- a) ~~School bus means every motor vehicle, except as provided in paragraph (b), below, owned or operated by or for any of the following entities for the transportation of persons regularly enrolled in any such~~

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENTS

~~entity as students in grade 12 or below in connection with any activity of the entity; a school operated by a religious institution or a public or private nursery, primary or secondary school. The definition of (a) does not include the following:~~

- b) ~~1) A bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when the bus is on a regularly scheduled route for the transportation of other special trips or in connection with special events or for shuttle service between attendance centers or other educational facilities and not over a regular or customary school bus route.~~
- 2) ~~A religious organization bus as defined in Ill. Rev. Stat. 1981 ch. 95 1/2, par. 1-102.~~
- 3) ~~A motor vehicle designed for carrying not more than 9 passengers which is not registered as a school bus under Ill. Rev. Stat. 1981 ch. 95 1/2, par. 3-808.~~

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 275.60 Vehicles Designed to Carry Nine Passengers or Less Excluding the Driver (Repealed)

- a) ~~The driver must have a current and properly classified driver's license and be at least 21 years of age with a minimum of one year's driving experience.~~
- b) ~~The driver who transports students on a regular basis for a school district must have an annual physical examination on file with the regional superintendent.~~
- c) ~~Proof of adequate insurance coverage shall be available at the school district office.~~
- d) ~~The owner must submit the vehicle to a testing lane and successfully pass inspection twice annually.~~

(Source: Repealed at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 275.100 Responsibility of Local School Boards

- a) Each local board of education shall designate a person under its direct supervision to ensure that all laws and regulations affecting safe pupil transportation are adhered to.
- b) A map or written description which designates each school bus route, the regular stops, railroad crossings, and other pertinent information shall be maintained.
- c) A record of emergency evacuation drills shall be maintained.

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENTS

- d) Evidence of adequate insurance protection shall be maintained by the local education agency.
- e) A current list and employment record of all school bus drivers shall be maintained by the local education agency for which transportation is being provided. Regional superintendents shall require that this information be provided to their office.
- f) Local school boards shall institute policies and practices which promote the safety and well-being of school bus passengers including provisions which support Section 10-22.6(b) of the School Code [105 ILCS 5/10-22.6(b)]. ~~7-Section 10-22-6(b)~~
- g) In case of a death which occurs as a result of a school bus accident, the local education agency shall immediately contact the regional superintendent by telephone.
- h) Local school boards of districts that provide transportation of pupils on buses that are owned by the district and operated by drivers employed by the district shall comply with the requirements of Section 29-6.3 of the School Code [105 ILCS 5/29-6.3]. The district's fully allocated costs for the direct provision of transportation shall be calculated in accordance with applicable provisions of the State Board of Education's rules for Pupil Transportation Reimbursement (see 23 Ill. Adm. Code 120.115).

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Joint Rules of the Illinois Environmental Protection Agency, the Illinois Department of Public Health, and the Illinois Department of Nuclear Safety: Certification and Operation of Environmental Laboratories
- 2) Code Citation: 35 Ill. Adm. Code 183
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
183.115	Amendment
183.120	Amendment
183.150	Amendment
183.205	Repealed
183.210	Repealed
183.215	Repealed
183.220	Repealed
183.225	Repealed
183.230	Repealed
183.231	Repealed
183.235	Repealed
183.240	Repealed
183.245	Repealed
183.250	Repealed
183.255	Repealed
183.Appendix A	Repealed
183.Appendix B	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 1401(1)(D) of the Safe Drinking Water Act (42 USC 300f(1)(D)), Subpart C of the National Interim Primary Drinking Water Regulations (40 CFR 141.21 through 141.30 (1991)), the Illinois Environmental Protection Act [415 ILCS 5], and the Civil Administrative Code of Illinois [20 ILCS 5], and authorized by Sections 4(o) and (p) of the Illinois Environmental Protection Act [415 ILCS 5/4(o) and (p)] and Sections 55.10 through 55.12 and Section 71 of the Civil Administrative Code of Illinois [20 ILCS 2310/55.10 through 55.12, and 20 ILCS 2005/71].

- 5) A Complete Description of the Subjects and Issues Involved: The amendments to the Joint Rules propose amendment of the general provisions and repeal of Subpart B, addressing certification of environmental laboratories by the Illinois Environmental Protection Agency (Illinois EPA) for chemicals. The Illinois EPA is proposing a comprehensive accreditation program in proposed 35 Ill. Adm. Code 186, which will replace the repealed portions of 35 Ill. Adm. Code 183. The proposed 35 Ill. Adm. Code 186 presents a detailed and comprehensive system for environmental laboratory accreditation, adoption of which will allow Illinois laboratories to participate in a nation wide accreditation program. The Illinois Department of Public Health (IDPH) and the Illinois Department of Nuclear Safety (IDNS) plan repeal of their respective



## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

portions of 35 Ill. Adm. Code 183 in conjunction with the proposal of new accreditation rules. The timing of these two rulemakings is uncertain.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rule amendment contain incorporations by reference?  
Yes
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a mandate under Section 3 of the State Mandates Act [30 ILCS 805/3].

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

James Shaw, Manager  
Laboratory Accreditation  
Quality Assurance Section  
Division of Laboratories  
Illinois Environmental Protection Agency  
2200 Churchill Road, P.O. Box 19276  
Springfield, IL 62794-9276  
(217) 782-6455

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: The small environmental laboratory will be subject to the repeal of portions of 35 Ill. Adm. Code 183 and adoption of 35 Ill. Adm. Code 186 in this voluntary laboratory accreditation program.

B) Reporting, bookkeeping or other procedures required for compliance:  
The reporting, bookkeeping, and other procedures to maintain its certification are repealed. However, they will be replaced with the reporting, bookkeeping, and other procedures to maintain accreditation in 35 Ill. Adm. Code 186.

C) Types of professional skills necessary for compliance: The environmental laboratory certification rules require professional laboratory skills for maintenance of the certification.

- 13) Regulatory Agenda on which this rulemaking was summarized: January 1997

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

The full text of the Proposed Amendments begins on the next page:

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 35: ENVIRONMENTAL PROTECTION

## SUBTITLE A: GENERAL PROVISIONS

## CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

## PART 183

## JOINT RULES OF THE ILLINOIS-ENVIRONMENTAL-PROTECTION

## AGENCY, THE ILLINOIS

## DEPARTMENT OF PUBLIC HEALTH

## AND THE ILLINOIS DEPARTMENT OF NUCLEAR SAFETY:

## CERTIFICATION AND OPERATION OF ENVIRONMENTAL LABORATORIES

## SUBPART A: GENERAL PROVISIONS

## Section

183.105 Authority

183.110 Scope and Applicability

183.115 Definitions

183.120 Division of Authority

183.125 Certification Procedure

183.130 Conditions Governing the Use of Certificates

183.131 Provisional Certification

183.132 Preliminary Certification

183.133 Changes in Ownership or Operations

183.134 Revocation of Certification

183.135 Subcontracting by Certified Laboratories

183.140 Performance Evaluation Samples

183.145 Authority of Certification Officers

183.150 Hearing, Decision and Appeal

183.155 Liability

183.160 Reciprocity Agreements

183.165 Reporting (Repealed)

183.170 Public Inspection of Records (Repealed)

## SUBPART B: CHEMICAL ANALYSES OF PUBLIC

## WATER SUPPLY SAMPLES

## Section

183.205 Scope and Applicability (Repealed)

183.210 Personnel Requirements (Repealed)

183.215 Laboratory Facilities (Repealed)

183.220 Laboratory Equipment (Repealed)

183.225 General Laboratory Practices (Repealed)

183.230 Methodology and Required Equipment (Repealed)

183.231 Alternate Analytical Techniques (Repealed)

183.235 Sample Collection, Handling and Preservation (Repealed)

183.240 Quality Control (Repealed)

183.245 Record Maintenance (Repealed)

183.250 Free Chlorine Residual and Turbidity (Repealed)

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

## 183.255 Action Response to Laboratory Results (Repealed)

## SUBPART C: MICROBIOLOGICAL ANALYSES OF

## PUBLIC WATER SUPPLY SAMPLES

## Section

183.305 Scope and Applicability

183.310 Personnel Requirements

183.315 Laboratory Facilities

183.320 Laboratory Equipment

183.325 Laboratory Glassware, Plastic Ware and Metal Utensils

183.330 General Laboratory Practices

183.335 Methodology

183.340 Sample Collection, Handling and Preservation

183.345 Standards for Laboratory Pure Water

183.350 General Quality Control Procedures

183.355 Quality Controls for Media, Equipment and Supplies

183.360 Data Handling

183.365 Record Maintenance

183.370 Action Response to Laboratory Results

## SUBPART D: RADIOCHEMICAL ANALYSES OF PUBLIC

## WATER SUPPLY SAMPLES

## Section

183.405 Scope and Applicability

183.406 Length of Certification for Radiochemical Laboratories

183.410 Personnel Requirements

183.415 Laboratory Facilities

183.420 Laboratory Equipment and Instrumentation

183.425 General Laboratory Practices

183.430 Analytical Methodology

183.435 Sample Collection, Handling and Preservation

183.440 Quality Assurance

183.445 Record Maintenance

183.450 Action Response to Laboratory Results

## APPENDIX A

Methodology and Required Equipment for Inorganic Chemical Analyses of Public Water Supply Samples (Repealed)

## APPENDIX B

Methodology and Required Equipment for Regulated Organic Chemical Analyses of Public Water Supply Samples (Repealed)

AUTHORITY: Implementing Section 1401(1)(D) of the Safe Drinking Water Act (42 USC 300f(1)(D)), Subpart C of the National Primary Drinking Water Regulations (40 CFR 141.21 through 141.30 (1991)), the Illinois Environmental Protection Act [415 ILCS 5] and the Civil Administrative Code of Illinois [20 ILCS 5] and authorized by Section 4(o) and (p) of the Illinois Environmental Protection Act [415 ILCS 5/4(o) and (p)] and Sections 55.10 through 55.12 and Section 71 of

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

the Civil Administrative Code of Illinois [20 ILCS 2310/55.10 through 55.12 and 20 ILCS 2005/71].

SOURCE: Adopted at 3 Ill. Reg. 34, p. 103, effective August 19, 1979; codified at 6 Ill. Reg. 14657; amended at 7 Ill. Reg. 13523, effective September 28, 1983; amended at 14 Ill. Reg. 8592, effective May 16, 1990; amended at 17 Ill. Reg. 12319, effective July 14, 1993; amended at 20 Ill. Reg. 3160, effective February 5, 1996; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

## Section 183.115 Definitions

For purposes of this Part unless otherwise specifically defined or the context clearly requires a different meaning:

"Act" means Section 4(o) and (p) of the Environmental Protection Act [415 ILCS 5/4(o) and (p)].

"Agency" means the ~~Illinois~~ **Environmental--Protection--Agency**, the Illinois Department of Public Health or the Illinois Department of Nuclear Safety, whichever is applicable based on the division of authority specified in Section 183.120.

"Analyst" means any person who performs analyses for certain or all parameters on samples submitted to the environmental laboratory and who meets the qualifications set forth in the applicable Subpart of this Part.

"Certification" means a status of approval granted to an environmental laboratory that meets the criteria established by this Part or in accordance with a reciprocity agreement entered into pursuant to Section 183.160. Certification is not a guarantee of the validity of the data generated.

"Certification Officer" means any person who is designated by the Agency to inspect and evaluate environmental laboratories for compliance in meeting the criteria set forth in this Part. Certification officers shall meet the educational and experience qualifications for laboratory directors as set forth in Subparts B and D or laboratory supervisors as set forth in Subpart C.

"Consultant" means a person who is retained by a written agreement to provide professional consultation services.

"Deficiency" means a failure of an environmental laboratory to meet any applicable requirement of this Part.

## ENVIRONMENTAL PROTECTION AGENCY

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"Environmental Laboratory" means any facility that performs analyses on environmental samples in order to determine the quality of food, milk, public water supplies, surface water, ground water, recreational waters, wastewater, air, or land.

"Laboratory Director" means the person who is responsible for the operation of an environmental laboratory and who meets the qualifications set forth in the applicable Subpart of this Part.

"Laboratory Pure Water" means water meeting the standards set forth in Section 183.345.

"Laboratory Supervisor" means a person who supervises the performance of the analytical procedures within an environmental laboratory and who meets the qualifications set forth in the applicable Subpart of this Part.

"Major remodeling" means any remodeling of the laboratory facility which requires the acquisition of a local building permit.

"Parameter" means a chemical element, chemical compound, radioisotope or microbiological organism.

"Performance Evaluation Sample" (PES) means a sample used to determine accuracy, prepared either by the certifying agency or an authority recognized by the certifying agency, in which the true value and acceptance limits are unknown to the laboratory at the time of analysis.

"Provisional Certification" means a certification status granted to an environmental laboratory in order to allow time for the correction of a deficiency. Failure to correct a deficiency during the provisional certification period allows the Agency to revoke certification as specified in Section 183.134. While on provisional certification, an environmental laboratory remains approved for the analyses covered by its certification.

"Public Water Supply" means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year.

"Senior Analyst" means a person who performs analyses on samples submitted to the environmental laboratory and who meets the



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qualifications set forth in the applicable Section of this Part.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 183.120 Division of Authority

a) ~~The Illinois Environmental Protection Agency shall administer this Part with respect to the analysis of organic and inorganic chemical parameters.~~

ab) The Illinois Department of Public Health shall administer this Part with respect to the analysis of microbiological parameters.

bc) The Illinois Department of Nuclear Safety shall administer this Part with respect to the analysis of radiological parameters.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 183.150 Hearing, Decision and Appeal

The following procedures are established for Agency certification actions which are required by law to be preceded by notice and opportunity for hearing:

a) Prior to revocation or partial revocation, the Agency shall give written notice to the laboratory director or owner. This notice shall include a description of the proposed action, the facts or conduct upon which the Agency will rely to support its proposed action and the procedures for requesting a hearing.

b) Notice given under subsection (a) above and any hearing requested following issuance of such notice shall be in accordance with the "Rules of Practice and Procedure in Administrative Hearings" as adopted by the Illinois Department of Public Health. A single joint hearing may be conducted when a hearing is requested concerning actions of more than one Agency.

1) With respect to the Illinois Environmental Protection Agency, the "Rules of Practice and Procedure in Administrative Hearings" (77 Ill. Adm. Code 100) are applicable only to hearings under this Section and the included definitions of "Department" and "Director" are modified as follows:

"Department" shall mean the Illinois Environmental Protection Agency.

"Director" shall mean the Director of the Illinois Environmental Protection Agency.

2) With respect to the Illinois Department of Nuclear Safety, the "Rules of Practice and Procedure in Administrative Hearings" (77 Ill. Adm. Code 100) are applicable only to hearings under this Section and the included definitions of "Department" and "Director" are modified as follows:

"Department" shall mean the Department of Nuclear Safety.

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"Director" shall mean the Director of the Department of Nuclear Safety.

c) If, however, the Agency finds that an emergency situation warrants immediate action, summary suspension as provided for by Section 10-65(d) of the Illinois Administrative Procedure Act (311 Rev. Stat. 1997, ch. 127, par. 101-101-65(d)) [5 ILCS 100/10-65(d)] may be ordered pending revocation proceedings. An emergency situation warrants immediate action if there is substantial risk to public health, safety, or welfare resulting from laboratory deficiencies that are compromising or are likely to compromise the analytical results obtained.

d) A final decision of the Director of the Illinois Department of Public Health or the Director of the Illinois Department of Nuclear Safety is appealable to the Circuit Courts under the Illinois Administrative Review Act (311 Rev. Stat. 1997, ch. 110, pars. 3-101 et seq.) [735 ILCS 5/Art. III, 3-101 et seq.]. A final decision of the Director of the Illinois Environmental Protection Agency may be contested before the Pollution Control Board under the Illinois Environmental Protection Act (311 Rev. Stat. 1997, ch. 111, 1-1/27, pars. 1-101 et seq.) [415 ILCS 5/1 et seq.] with subsequent appeal to the Appellate Courts available.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: CHEMICAL ANALYSES OF PUBLIC WATER SUPPLY SAMPLES

## Section 183.205 Scope and Applicability (Repealed)

This Subpart B establishes standards applicable to environmental laboratories involved in chemical analyses of samples of water from public water supplies and their sources.

(Source: Repealed at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 183.210 Personnel Requirements (Repealed)

a) The laboratory director shall be a person holding a minimum of a bachelor's degree in natural or physical sciences with at least 24 semester hours in chemistry or microbiology or both and shall have had a minimum of two years experience in an environmental laboratory. The laboratory director shall be either a full-time employee or a consultant.

b) A laboratory supervisor shall be a person holding a minimum of a bachelor's degree in natural or physical sciences that includes the number of credit hours in chemistry courses required for a major in

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chemistry--and--shall--have--had--a--minimum--of--one--year--of--experience--in--the--area--of--analytical--responsibility---A--laboratory--supervisor--shall--be--a--full-time--employee.

e) Instrument--operators---who---operate--Atomic--Absorption--(AA)--Ion Chromatograph--(IC)--Gas--Chromatograph--(GC)--Gas--Chromatograph/Mass Spectrometer--(GC/MS)--and/or--Inductively--Coupled--Plasma--(ICP)--shall meet--the--following--required--minimum--standards:

1) Hold--a--bachelor's--degree--in--chemistry--or--related--field---This degree--requirement--may--be--waived--if--the--immediate--supervisor--has a--bachelor's--degree--in--chemistry--or--related--field--or--if--the analyst--has--the--number--of--credit--hours--in--chemistry--courses required--for--a--major--in--chemistry.

2) Have--a--minimum--of--six--months--experience--on--the--instrument--being operated--except--for--a--GC/MS--where--a--minimum--of--12--months experience--is--required---(See--subsection--(e)--below).

3) Operators--of--either--a--GC/MS--or--ICP--also--shall--have--satisfactorily completed--a--short--course--in--GC/MS--or--ICP--offered--by--the--equipment manufacturer--professional--organization--university--or--other qualified--training--facility.

4) After--appropriate--training--the--operator--must--demonstrate acceptable--results--in--the--analysis--of--an--applicable--quality control--or--performance--evaluation--sample.

d) An--analyst--is--a--person--who--holds--a--high--school--diploma--or--its equivalent--and--has--demonstrated--the--ability--to--properly--obtain acceptable--results--in--the--analysis--of--an--applicable--quality--control--or performance--evaluation--sample.

e) Data--produced--by--analysts--and--instrument--operators--while--in--the process--of--obtaining--the--required--training--or--experience--are acceptable--when--reviewed--and--validated--by--a--fully--qualified--analyst--or the--laboratory--supervisor.

f) A--person--who--as--of--the--effective--date--of--these--amendments--is--serving in--an--environmental--laboratory--in--any--capacity--as--defined--in subsections--(a)--through--(e)--above--and--does--not--meet--the--educational requirements--or--experience--requirements--or--both--for--said--position--may be--recommended--to--continue--to--serve--in--said--position--by--the certification--officer--in--recommending--that--an--existing--laboratory director--laboratory--supervisor--or--analyst--continue--to--serve--in--that position--the--certification--officer--shall--take--into--account--the following--factors:

1) Length--of--experience--as--an--offset--for--not--meeting--educational requirements?

2) Extent--of--education--as--an--offset--for--not--meeting--experience requirements--and

3) For--analysts--demonstration--of--ability--to--properly--perform representative--test--procedures--with--which--he--or--she--is--involved while--under--observation--by--the--certification--officer.

(Source: Repealed at 21 Ill. Reg. \_\_\_\_\_, effective

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## Section 183.215 Laboratory Facilities (Repealed)

the--laboratory's--physical--facilities--shall--meet--the--following--specifications:

a) A--minimum--of--150--200--square--feet--of--floor--space--shall--be--provided--for each--analyst.

b) A--minimum--of--15--linear--feet--of--usable--bench--space--shall--be--provided for--each--analyst.

c) The--laboratory--shall--include--a--sink--with--hot--and--cold--running--water. All--water--supply--outlets--shall--be--protected--by--approved--vacuum breakers.

d) The--laboratory--shall--include--a--vacuum--source--if--the--analyses--performed so--require.

e) The--laboratory--shall--have--a--readily--available--source--of--distilled water--or--deionized--water--or--both.

f) The--laboratory--shall--include--at--least--one--fume--hood--for--analyses--of organic--chemicals--and--trace--metals.

g) The--laboratory--shall--maintain--the--inorganic--and--organic--facilities--in separate--rooms.

h) The--analytical--and--sample--storage--area--shall--be--isolated--from--all potential--sources--of--contamination.

(Source: Repealed at 21 Ill. Reg. \_\_\_\_\_, effective

## Section 183.220 Laboratory Equipment (Repealed)

Only--these--instruments--that--are--needed--to--analyze--for--the--parameters--for--which the--laboratory--is--being--certified--are--required---Those--instruments--shall--meet the--requirements--of--the--applicable--methods---Minimal--equipment--requirements are:

a) An--analytical--balance--shall--provide--a--sensitivity--of--at--least--0.1--mg--and--shall--be--placed--on--a--stable--base.

b) A--magnetic--stirrer--shall--be--of--variable--speed--and--use--a--Teflon--coated stirring--bar.

c) A--pH--meter--shall--have--an--accuracy--of--at--least--plus--or--minus--0.1--units and--a--scale--readability--of--at--least--plus--or--minus--0.1--units---The--pH meter--may--be--either--line/bench--or--battery/portable--operated--and--also shall--be--capable--of--functioning--with--specific--ion--electrodes.

d) A--conductivity--meter--and--cell--combination--suitable--for--checking distilled--water--quality--shall--be--readable--in--ohms--or--mhos--and--have--a range--of--up--to--2.5--megohm-cm--resistivity--(conductivity--down--to--0.4 micromhos-cm)--plus--or--minus--1--percent---The--conductivity--meter--may--be either--line/bench--or--battery/portable--operated.

e) A--hot--plate--may--be--a--large--or--small--unit--and--shall--have--a--selectable temperature--control--for--safe--heating--of--laboratory--reagents.

f) A--refrigerator--used--for--storage--of--organics--and--flammable--materials

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shall be an "explosion-proof" type. For storage of organics and flammable materials when refrigeration is not required, an explosion proof cabinet shall be provided. A refrigerator for the general storage of aqueous reagents and samples may be a standard kitchen-type domestic refrigerator.

g) Glassware which is used for purposes that may subject it to damage from heat or chemicals shall be of borosilicate glass. All volumetric glassware shall be Class A, denoting that it meets federal specifications and is certified by the manufacturer as meeting the standards established by the American Society for Testing and Materials (ASTM).

h) A thermometer shall have a 0 or finer subdivision to 100°C and be certified by or traceable to the National Institute of Standards and Technology.

(Source: Repealed at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 183.225 General Laboratory Practices (Repealed)

a) All prepackaged kit methods, other than the DBB and the (PACS) Colorimetric Test Kit, are considered alternative analytical techniques and may be substituted only if approved in accordance with 40 CFR 141.27, revised as of July 17, 1987, exclusive of any subsequent amendments or editions. A copy of 40 CFR is available for public inspection at the Illinois Environmental Protection Agency.

b) A laboratory utilizing visual comparison devices shall calibrate the standards incorporated into such devices at least every six months. These calibrations shall be documented. Preparation of temporary and permanent type visual standards shall be in accordance with the Color Visual Comparison Method, Standard Methods for the Examination of Water and Wastewater, 14th Edition, American Public Health Association (Washington, D.C., 1976), pp. 64-66, and the Turbidity Visual Methods, 408B, Standard Methods for the Examination of Water and Wastewater, 16th Edition, American Public Health Association (Washington, D.C., 1985), exclusive of any subsequent amendments or editions. A copy of this publication is available for public inspection at the Illinois Environmental Protection Agency. By comparing standards and plotting such a comparison on graph paper, a correction factor shall be derived and applied to all future results obtained on the now-calibrated apparatus until it is recalibrated.

c) Prior to use, all glassware shall be washed in a warm detergent solution and thoroughly rinsed. First in tap water and then in distilled or deionized water. This cleaning procedure is sufficient for most analytical needs, but the procedures specified for individual parameters shall be referred to for more elaborate precautions to be taken against contamination of glassware. A separate set of glassware shall be maintained for the nitrate, mercury and lead procedures due

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to the potential for contamination from the laboratory environment. All glassware used in organic chemical analyses shall have a final organic solvent rinse or must be baked at 400°C for 30 minutes and shall be dried in an area free of organic contamination. Glassware must be covered with organic-free aluminum foil during storage.

d) Distilled or deionized water shall have resistivity values of at least 8.5 megohm-cm (conductivity less than 2.0 micromhos/cm) at 25°C. Laboratories are advised to request a list of quality specifications for any water purchased. The quality of the distilled or deionized water shall be maintained by protecting it from the atmosphere. Quality checks of the distilled or deionized water shall be made at least once each shift and documented. Reagent water for organic analysis must be free of interferences for the analytes being measured. It may be necessary to treat water with activated carbon to eliminate all interferences.

e) Reagents used for chemical analyses shall be of a quality at least equal to the grade recommended in the applicable analytical procedure reference.

f) Laboratory safety practices are not considered an aspect of laboratory certification. However, certification officers may point out on an informal basis potential safety problems observed during on-site visits.

(Source: Repealed at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 183.230 Methodology and Required Equipment (Repealed)

Minimum equipment requirements, methodology, and references for individual parameters shall be as provided in Appendices A and B of this Part.

(Source: Repealed at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 183.231 Alternate Analytical Techniques (Repealed)

The drinking water regulations permit approval of alternate analytical techniques, if these techniques are demonstrated to produce results within the acceptance range of the approved methods. The process and requirements for obtaining approval is described in the document "Requirements for Nationwide Approval of New and Optionally Revised Methods for Drinking Water Monitoring," N-S-101mer7, Environmental Monitoring Systems Laboratory, Cincinnati, Ohio 45260-1908, exclusive of any subsequent amendments or editions. A copy of this publication is available for public inspection at the Illinois Environmental Protection Agency. To obtain more specific information, contact BMS at (513) 569-7453.

(Source: Repealed at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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## Section 183.235 Sample Collection, Handling and Preservation (Repealed)

- a) The manner in which samples are collected and handled is critical for obtaining valid data. A written sampling protocol with specific instructions should be available to sample collectors and for inspection by the certification officer. When the laboratory has responsibility for sample collection, handling, and preservation, there must be strict adherence to correct sampling procedures, complete identification of the sample, and prompt transfer of the sample to the laboratory. Any sample not meeting the following criteria must not be analyzed:
- 1) Samples must be collected in accordance with the approved methodology and the guidance requirements in the EPA-Bureau of Water Division of Public Water Supplies Handbook 4/69, exclusive of any subsequent amendments or editions.
  - 2) Analytical report forms must contain the location, date and time of collection, collector's name, and any special remarks concerning the sample.
- b) The following standards for container types, preservatives, and holding time shall be met for each individual parameter:

Parameter(s)	Preservative	Container(s)	Maximum Holding Time(s)
Alkalinity	Refrigerate at 4-6°C as soon as possible after collection	P-or-G	14-days
Aluminum	Conc-HNO <sub>3</sub> -to-pH less-than-2(b)	P-or-G	6-months
Antimony	Conc-HNO <sub>3</sub> -to-pH less-than-2(b)	P-or-G	6-months
Arsenic	Conc-HNO <sub>3</sub> -to-pH less-than-2(b)	P-or-G	6-months
Asbestos	Cool-4°C(t)	P-or-G	
Barium	Conc-HNO <sub>3</sub> -to-pH less-than-2(b)	P-or-G	6-months
Beryllium	Conc-HNO <sub>3</sub> -to-pH less-than-2(b)	P-or-G	6-months

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Parameter(s)	Preservative	Container(s)	Maximum Holding Time(s)
Cadmium	Conc-HNO <sub>3</sub> -to-pH less-than-2(b)	P-or-G	6-months
Calcium	Conc-HNO <sub>3</sub> -to-pH less-than-2(b)	P-or-G	6-months
Chloride	None	P-or-G	28-days
Chromium	Conc-HNO <sub>3</sub> -to-pH less-than-2(b)	P-or-G	6-months
Color	Cool-4°C	P-or-G	48-hours
Conductivity	Cool-4°C	P-or-G	28-days
Copper	Conc-HNO <sub>3</sub> -to-pH less-than-2(b)	P-or-G	6-months
Cyanide	Add-NaOH-to-pH greater-than 12; ascorbic acid in the presence of residual-chloride; refrigerate and keep-in-dark	P-or-G	14-days
Fluoride	None	P-or-G	28-days
Foaming-Agents	Cool-4°C		48-hours
Hydrogen Sulfide-(pH)	None	P-or-G	Analyze immediately-(t)
Iron	Conc-HNO <sub>3</sub> -to-pH less-than-2(b)	P-or-G	6-months
Lead	Conc-HNO <sub>3</sub> -to-pH less-than-2(b)	P-or-G	6-months
Manganese	Conc-HNO <sub>3</sub> -to-pH less-than-2(b)	P-or-G	6-months
Mercury	Conc-HNO <sub>3</sub> -to-pH less-than-2(b)	P-or-G	8-days

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Parameter(s)	Preservative	Container(s)	Maximum Holding Time(s)
Nickel	Gene-HNO <sub>3</sub> to pH less than-2(b)	P-or-G	6-months
Nitrate Chlorinated	Cool-4aE	P-or-G	28-days
Non-Chlorinated	Gene-Hf <sub>2</sub> SO <sub>4</sub> to pH less than-2 (g)	P-or-G	14-days
Nitrite	Cool-4aE	P-or-G	48-hours
Odor	Cool-4aE	G	24-hours
Orthophosphate	Filter-immediately, Cool-4aE	P-or-G	48-hours
Selenium	Gene-HNO <sub>3</sub> to pH less than-2(b)	P-or-G	6-months
Silver	Gene-HNO <sub>3</sub> to pH less than-2(b)	P-or-G	6-months
Silica	Cool-4aE	P	28-days
Sodium	Gene-HNO <sub>3</sub> to pH less than-2(b)	P-or-G	6-months
Sulfate	Cool-4aE	P-or-G	28-days
Temperature	None	P-or-G	Analyze immediately (i)
Thallium	Gene-HNO <sub>3</sub> to pH less than-2(b)	P-or-G	6-months
Total-Dissolved	Cool-4aE	P-or-G	7-days
Solids-(TDS)			
Zinc	Gene-HNO <sub>3</sub> to pH less than-2(b)	P-or-G	6-months
Synthetic-Organic	(e)	(e)	(e)

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Parameter(s)	Preservative	Container(s)	Maximum Holding Time(s)
Chemicals			
Trihalomethanes	0-000-sodium thiosulfate-or ascorbic-acid; Refrigerate-at 4a-E-as-soon-as possible-after collection	G-with Teflon-lined-cap	14-days
Volatile Organic Compounds	1:1-HCl-to-pH-less than-2; Cool 4a-E	G-with Teflon-lined-cap	14-days
AGENCY NOTES:			
a. If a laboratory has no control over these factors the laboratory director must reject any samples not meeting these criteria and so notify the authority requesting the analyses.			
b. If HNO <sub>3</sub> is specified for preservation cannot be used because of shipping restrictions immediately ship the sample to the laboratory at ambient temperature. Upon receipt the sample must be acidified with conc. HNO <sub>3</sub> to pH < 2 and held for at least 16 hours before analysis.			
c. P-plastic; hard or soft; G-glass; hard or soft.			
d. In all cases samples should be analyzed as soon after collection as possible.			
e. Preservation container and maximum holding time are specified within the approved methods.			
f. No preservation is required if analysis is completed within 48 hours from the time of sample collection.			
g. These samples should never be frozen.			
h. Analyze immediately--generally means within 15 minutes after sample collection.			

(Source: Repealed at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 183.240 Quality Control (Repealed)

- a) A written description of the current laboratory quality control program shall be maintained and made available to analysts in an area of the laboratory where analytical work takes place.
- b) A laboratory manual containing complete written instructions for each parameter for which the laboratory is certified shall be maintained

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and made available to analysts in an area of the laboratory where analytical work takes place.

- e) A laboratory shall analyze unknown performance evaluation samples provided by the Agency or participate in the USEPA's Water Supply Performance Evaluation Survey so that results proving satisfactory precision and accuracy, as specified in Section 103.1407, are submitted to the Agency once per year for the parameters for which the laboratory is certified. When performance evaluation sample results indicate technical error, the Agency will provide appropriate technical assistance and follow-up performance evaluation samples shall be analyzed by the laboratory.

AGENCY--NWPB: A--copy of the USEPA's Water Supply Performance Evaluation Survey may be obtained from the USEPA's Region V offices located at 230 South Dearborn Street, Chicago, Illinois 60604.

- d) A laboratory shall conduct analyses on quality control samples (USEPA Quality Control Sample or equivalent) once per quarter for the parameters for which a laboratory is certified.

- e) A current service contract shall be in effect on all analytical balances.

- f) National Institute of Standards and Technology--Department of Commerce--Gaithersburg--MD--20899--(NIST--1992)--exclusive of any subsequent amendments or editions)--Standardized Glass--weights shall be available at the laboratory to make periodic checks on balances. This frequency shall not be less than once per month. A record of these checks is to be available for inspection.

- g) At least one thermometer in a finer subdivision to 100<sup>th</sup> of a degree and certified by or traceable to the NIST shall be available to check thermometers in ovens, etc.

- h) Color standards or their equivalent shall be available to verify wavelength settings from 200 to 800 nm on spectrophotometers. A record of these checks shall be available for inspection. The specific checks and their frequency shall be as prescribed in the laboratory's QA plan. The frequency of these checks shall not be less than every 6 months.

- i) Chemicals shall be dated upon receipt of shipment and replaced as needed or if earlier before shelf life has been exceeded.

- j) The following quality control procedures shall be utilized by the laboratory for each analyte for which a laboratory is certified:

- 1) At the beginning of each day that samples are to be analyzed, a standard reagent curve composed of a minimum of a reagent blank and three standards covering the sample concentration range must be analyzed.

- 2) Calibration for some methods is so time consuming that subsection (j)(1) above is impractical. For these methods, the standard curve is to be initially developed as specified in subsection (j)(1) above. Thereafter, at the beginning of each day on which analyses are performed, this curve is to be verified by analysis of at least a reagent blank and one standard in the expected

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concentration range of the samples analyzed that day. All checks shall be within plus or minus 10 percent of the original curve or meet the specifications of the approved method.

- 3) If the reagent blank stated in subsection (j)(1) above is not carried through the full analytical procedure, then some other blank (at least one a day) must be carried through the entire analytical procedure. Results from reagent blanks shall not exceed the laboratory's determined method detection limit.

- 4) The laboratory should add a known spike to a minimum of 10 percent of the routine samples (except when the method specifies a different percentage, i.e., furnace methods) in order to determine if the entire analytical system is in control. The spike concentration shall not be substantially less than the background concentration of the sample selected for spiking. These checks shall be evenly spaced and one check shall be at the end of the day's analyses. Over time, samples from all routine sample sources shall be spiked. If any of these checks are not within the limits specified in subsection (j)(5) below, a standard shall be analyzed to determine if the out-of-control condition was due to sample matrix or system operation. This standard must be analyzed through the complete analytical system. Corrective action must be taken in accordance with the laboratory's quality assurance plan.

- 5) Until sufficient data are available from the laboratory, usually a minimum of 15 to 25 test results on a specific analyte, the laboratory is to use the control limits if available developed from the mean and standard deviation of the relationship in Table IV-6 (See Chapter IV of the Manual for the Certification of Laboratories Analyzing Drinking Water, EPA-570/9-90/009, April 1990), exclusive of any subsequent amendments or editions. This Table was derived from USEPA's performance evaluation sample data. After inserting the analytical concentration (C) into the proper pair of relationships, compute control limits for standards as X-3(S) and for spike recoveries as (X-B)-3(S). As sufficient data become available, the laboratory shall develop traditional quality control charts criteria for the various quality control checks specified in subsection (j)(4) above. (See Chapter 6 of the Handbook for Analytical Quality Control in Water and Wastewater Laboratories, EPA-600/4-79-019, March 1979) exclusive of any subsequent amendments or editions or similar quality control reference texts for further information. Since percent recovery may not be a constant, the percent recovery data may have to be separated into concentration intervals before control limits are calculated for each interval. If any of these control limits are tighter than the matching control limits in Table IV-6, the laboratory shall use the tighter control limits. Otherwise, control limits in Table IV-6 are required. If no



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control-limit-criteria-has-been-specified--then--the--laboratory shall-use-the-mean--two-times-the-standard-deviation-obtained-in the--method--detection--limit--determination-required-below--the laboratory-must-continue-to-evaluate-traditional-control-limits for-each-analyte-interval-as-additional-results-become-available. It-is-further-required-that-the-laboratory-periodically-determine the--method--detection-limits-in-accordance-with-Appendix-B-to-40 CFR-136.

6) If-the-method-requires-any-additional-quality-control--it--shall be-performed-in-the-laboratory.

(Source: Repealed at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 183.245 Record Maintenance (Repealed)

Records-of-chemical-analyses-shall-be-kept-by-the-laboratory-for-not-less-than three-years--this--includes-all-raw-data-calculations--quality-control-data and-reports--However--data--with-the-exception-of-compliance-check-samples--as detailed-in-40-CFR-141-33(b)--may-be-transferred-to-tabular--summaries--which shall-include-the-following-information:

- a) Date, place, and time of sampling; preservative added;
- b) Name of person who collected the sample;
- c) Identification of the sample--origin,--such as routine distribution system--sample--check--sample--raw or process--water--sample--or--other special-purpose sample;
- d) Date of receipt of sample;
- e) Records necessary to establish chain-of-custody-of-the-sample;
- f) Date of sample analysis;
- g) Name--of-the-persons-and-designation-of-the-laboratory-responsible-for performing-the-analysis;
- h) Designation-of-the--analytical--techniques--or--method--used--quality control-data--and
- i) Results-of-the-analysis.

(Source: Repealed at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 183.250 Free Chlorine Residual and Turbidity (Repealed)

- a) Free-and-total-chlorine-residual-measurements-do-not-need-to-be-done in-certified-laboratories--but-may-be-performed-by-any-persons-if-such persons-adhere-to-the-following-standards-in-their-analyses:

- i) Samples--shall-not-be-preserved-for-later-analysis--All-analyses shall-be-made-as-soon-as-practicable--but-no-later-than-one-hour after-sample-collection;
- 2) Plastic-or-glass-containers-shall-be-used-for-sample-collection;
- 3) A-BPB-Colorimetric-Test-Kit--or--a--spectrophotometer--or--a

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- 4) photometer-shall-be-available--and the-BPB-Colorimetric-Method-specified-in--"Standard-Methods--for the-Examination-of-Water-and-Wastewater"--16th-Edition--American Public-Health-Association--(Washington-D-C-1985)--exclusive--of any-subsequent-amendments-or-editions--shall-be-utilized.
- b) turbidity-measurements--do--not--need--to--be--done--in--certified laboratories--but-may-be-performed-by-any-persons-approved-by-the Agency--in-accordance-with-Technical-Policy-Statement-309(B)(2)-of-the Illinois-Environmental-Protection-Agency--Division-of-Public-Water Supplies--if--such-persons-adhere-to-the-following-standards-in-their analyses:

- i) Samples-shall-not-be-preserved-for-later-analysis--All-analyses shall-be-made-as-soon-as-practicable--but-no-later-than-one-hour after-sample-collection;

- 2) Plastic-or-glass-containers-shall-be-used-for-sample-collection;
- 3) A-nephelometer-shall-be-available;

- 4) The-Nephelometric-Method-specified-in--"Standard-Methods--for--the Examination--of--Water--and--Wastewater"--16th-Edition--American Public-Health-Association--(Washington-D-C-1985)--exclusive--of any-subsequent-amendments--or--editions--or--in--"Methods--for Chemical--Analysis--of--Water--and--Wastes"--United--States Environmental-Protection-Agency--Office-of-Technology-Transfer--Washington-D-C--204607--(1974)--shall-be-utilized--and

- 5) Sealed-liquid-turbidity-standards-purchased-from-the-instrument manufacturer-must-be-calibrated-against-property-prepared--and diluted--for-measuring-standards-at-least-every-4-months--in-order-to monitor-their-eventual-deterioration--The-standards-shall-be replaced-when-any-major-change--from--the--previous--calibration occurs--Solid-turbidity-standards-composed-of-plastic-glass--or other-materials-shall-not-be-used.

(Source: Repealed at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 183.255 Action Response to Laboratory Results (Repealed)

When-a-laboratory's-results-indicate-that-a-maximum-allowable-concentration--of any-parameter--has-been-exceeded--the-person-requesting-the-analysis-shall-be notified-within-two-business-days-after-the-unsatisfactory-sample-result.

(Source: Repealed at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 183.APPENDIX A Methodology and Required Equipment for Inorganic Chemical Analyses of Public Water Supply Samples (Repealed)

PARAMETER	METHODOLOGY (unfiltered sample)	EPA <sup>2</sup>	SM <sup>3</sup>	ASTM <sup>4</sup>	Other
Aluminum <sup>1,2</sup>	Inductively-Coupled Plasma ICP-Mass Spectrometry	200.7	3120B		
	Atomic Absorption-Furnace	200.8	3113B		
	Atomic Absorption-Platform	200.9	3114B		
Antimony	Atomic Absorption-Furnace		3113B		
	Atomic Absorption-Platform	200.9	3114B		
	Hydride-Atomic Absorption				
Arsenic	Atomic Absorption-Furnace		3113B	B3697-92	
	Atomic Absorption-Platform		3114B	B2972-93B	
	Inductively-Coupled Plasma	200.7	3120B	B2972-93B	
	ICP-Mass Spectrometry	200.8			
	Atomic Absorption-Platform	200.9			
Asbestos	Transmissiion electron microscopy	100.1 <sup>5</sup>			
	Transmissiion electron microscopy	100.2 <sup>10</sup>			
Barium	Atomic Absorption-Direct		3114B		
	Atomic Absorption-Furnace		3113B		
	Inductively-Coupled Plasma	200.7	3120B		
	ICP-Mass Spectrometry	200.8			
Beryllium	Atomic Absorption-Furnace		3113B	B3645-93B	
	Atomic Absorption-Platform	200.9			
	Inductively-Coupled Plasma	200.7	3120B		
	ICP-Mass Spectrometry	200.8			
Cadmium	Atomic Absorption-Furnace		3113B		
	Inductively-Coupled Plasma	200.7			
	ICP-Mass Spectrometry	200.8			
	Atomic Absorption-Platform	200.9			
Cyanide <sup>1,2</sup>	Potentiometric		4500-CN-D		
	Ion Chromatography	300.0 <sup>11</sup>	4110B	B4327-91	
Chromium	Atomic Absorption-Furnace		3113B		
	Inductively-Coupled Plasma	200.7	3120B		
	ICP-Mass Spectrometry	200.8			
	Atomic Absorption-Platform	200.9			
Cobalt <sup>1,2</sup>	Visual-Comparison Method		2120B		
Cyanide	Manual Distillation followed by Spectrophotometric Amenable		4500-CN-G		
	Spectrophotometric Manual		4500-CN-E	B2036-91B	
	Colorimetric	336.4 <sup>14</sup>		B2036-91A	
	Selective Electrode		4500-CN-F		
Fluoride	Ion Chromatography	300 <sup>11</sup>	4110B	B4327-91	
	Manual-Distill-Glow-SPADNS		4500F-B-D		
	Manual Electrode		4500F-G	B1179-93B	
	Automated Electrode				
	Automated-Airzom				380.754V <sup>9</sup> 420.714V <sup>6</sup>

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Forming Agent <sup>1,2</sup>	Methodology	EPA <sup>2</sup>	SM <sup>3</sup>	ASTM <sup>4</sup>	Other
Atomic Absorption-Direct					
Atomic Absorption-Furnace					
Inductively-Coupled Plasma					
Atomic Absorption-Platform					
Manganese	Atomic Absorption-Direct		3111B		
	Atomic Absorption-Furnace		3113B		
	Inductively-Coupled Plasma	200.7	3120B		
	ICP-Mass Spectrometry	200.8			
	Atomic Absorption-Platform	200.9			
Mercury	Manual-Cold Vapor	245.4 <sup>1</sup>	3112B	B3223-91	
	Automated-Cold Vapor	245.2 <sup>1</sup>			
	ICP-Mass Spectrometry	200.8			
Nickel	Atomic Absorption-Furnace		3113B		
	Atomic Absorption-Platform	200.9			
	Atomic Absorption-Direct		3111B		
	Inductively-Coupled Plasma	200.7	3120B		
	ICP-Mass Spectrometry	200.8			
Nitrate	Manual-Cadmium Reduction	363.2 <sup>14</sup>	4500-NO <sub>3</sub> -E		
	Automated-Cadmium Reduction	360.0 <sup>14</sup>	4110B	B4327-91	
	Ion-Selective Electrode		4500-NO <sub>3</sub> -D		
Nitrite	Spectrophotometric		4500-NO <sub>3</sub> -B		
	Automated-Sodium Reduction	363.2 <sup>14</sup>	4500-NO <sub>3</sub> -F		
	Manual-Cadmium Reduction	360.0 <sup>14</sup>	4500-NO <sub>3</sub> -E		
	Ion Chromatography		4110B	B4327-91	
Order <sup>1,2</sup>	Threshold Odor-Test		2150B		
Selenium	Atomic Absorption-Furnace		3113B		
	Hydride-Atomic Absorption		3114B		
	ICP-Mass Spectrometry	200.8			
	Atomic Absorption-Platform	200.9			
Silver	Atomic Absorption-Direct		3111B		
	Atomic Absorption-Furnace		3113B		
	Inductively-Coupled Plasma	200.7	3120B		
	ICP-Mass Spectrometry	200.8			
	Atomic Absorption-Platform	200.9			
Sodium	Atomic Absorption-Direct		3111B		
	Inductively-Coupled Plasma	200.7			
Sulfate <sup>1,2</sup>	Gravimetric Method				
	with Ignition of Residue				
	Ion Chromatography	300.0 <sup>11</sup>	4500-SO <sub>4</sub> -D		
	Colorimetric-Automated	375.2 <sup>14</sup>	4500-SO <sub>4</sub> -F		
	Methylthymol Blue				
Thallium	Atomic Absorption-Platform	200.9			
	ICP-Mass Spectrometry	200.8			
Total Dissolved Solids (TDS) <sup>1,2</sup>	Gravimetric		2540B		
Zinc	Atomic Absorption-Direct		3111B		
	Inductively-Coupled Plasma	200.7	3120B		
	ICP-Mass Spectrometry	200.8			

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Lead <sup>1</sup>	Atomic Absorption Furnace ICP-Mass Spectrometry Atomic Absorption Platform	200-8 200-9	3113B --	B3559-90B --	--
Cadmium	Atomic Absorption Direct Atomic Absorption Furnace Inductively Coupled Plasma ICP-Mass Spectrometry Atomic Absorption Platform	-- 200-7 200-8 200-9	3111B 3113B 3120B --	B1688-90A B1688-90B -- --	--
Hydrogen ion (pH)	Potentiometric	160-1 <sup>1</sup> 160-2 <sup>1</sup>	4500-M-B --	B1293-84 --	--
Conductivity <sup>12</sup>	Conductance	--	2510B --	B1125-91A --	--
Cadmium <sup>13</sup>	Atomic Absorption Direct EDTA Titrimetric Inductively Coupled Plasma	-- 200-7 --	3111B 3500-Ce-B 3120B 2520B --	B511-93B B511-93A -- B1067-92B --	--
Ammonia <sup>14</sup>	Titrimetric Electrometric Titration	-- 365-1 <sup>11</sup>	4500-P-F 4500-P-E -- -- 4110B --	-- B515-86A -- -- B4327-91 --	-- -- -- -- --
Hydrogen ion (pH)	Colorimetric automatic spectroscopic and single reagent Colorimetric phosphomolybdate automated segmented flow automated discrete ion Chromatography	-- -- -- -- 300-0 <sup>11</sup>	-- -- -- -- --	-- -- -- -- --	-- -- -- -- --
Silica <sup>14</sup>	Colorimetric molybdate blue automated segmented flow Colorimetric Molybdoarsenate Heteropoly blue Automated method for molybdate-reactive silica Inductively Coupled Plasma Thermometric	-- -- -- -- 200-7 --	-- -- 4500-S-B 4500-S-E 4500-S-F 3120B 2550 --	-- -- B659-88 -- -- -- --	-- -- -- -- -- --

AGENCY NOTES: The Methodology specified in Appendix A of this Part refers to the methods, standards and procedures listed below. Copies of the materials listed below can be inspected at the EPA-1340 North Oak St., Springfield, IL 62162. Analysis of the Appendix A contaminants shall be conducted in accordance with the methods in the Table or their equivalent as determined by the USEPA. Criteria for analyzing arsenic, barium, beryllium, cadmium, lead, chromium, copper, lead, nickel, selenium, sodium, and thallium with digestion or directly without digestion, and

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- AGENCY NOTES: The Methodology specified in Appendix A of this Part refers to the methods, standards and procedures listed below. Copies of the materials listed below can be inspected at the EPA-1340 North Oak St., Springfield, IL 62162. Analysis of the Appendix A contaminants shall be conducted in accordance with the methods in the Table or their equivalent as determined by the USEPA. Criteria for analyzing arsenic, barium, beryllium, cadmium, lead, chromium, copper, lead, nickel, selenium, sodium, and thallium with digestion or directly without digestion, and analytical procedures are contained in the Technical Notes on Drinking Water Methods, EPA-600/R-94-173, October 1994. This document also contains a list of approved analytical test methods which remain available for compliance monitoring until July 1, 1996. These methods will not be available for use after July 1, 1996. Copies may be obtained from the National Technical Information Service, NTIS-PB95-104766, U.S. Department of Commerce, 5205 Port Royal Road, Springfield, Virginia 22161. The toll-free number is 800-553-6047.
- 1: Methods 150-17, 150-27, and 345-2 are available from US-EPA, BMS57 Cineinnatir-0H-45260. The identical methods were formerly in "Methods of Chemical Analysis of Water" and "Wastes" BPA-600/4-79-0207, March 1983, which is available at NTIS PB04-120677.
  - 2: "Methods for the Determination of Metals in Environmental Samples Supplement 1", EPA-600/R-94-111, May 1994. Available at NTIS PB94-104942.
  - 3: The procedures shall be done in accordance with the 10th edition of "Standard Methods for the Examination of Water and Wastewater", 1992, American Public Health Association. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005.
  - 4: The procedures shall be done in accordance with the "Annual Book of ASTM Standards", Vol. 11.01 and 11.02, 1994. American Society for Testing and Materials. Copies may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.
  - 5: Techniques of Water Resources Investigation of the United States Geological Survey, Chapter A-17, "Methods for the Determination of Inorganic Substances in Water and Pluvial Sediments", Book-57 Third Edition, 1989. Available from Books and Open File Reports Section, U.S. Geological Survey, Federal Center, Box 25425, Denver, CO 80225-0425.
  - 6: "Method 100-17, Analytical Method for the Determination of Asbestos Fibers in Water", EPA-600/4-03-043, EPA, September 1993. Available at NTIS PB-93-260471.
  - 7: "Water Test Method for Determination of Nitrate/Nitrate in Water Using Single Column Ion Chromatography", Method B-1011, Mililpo Corporation, Waters Chromatography Division, 34 Maple Street, Milford, Massachusetts 01754.
  - 8: The procedure shall be done in accordance with the Technical Bulletin 601, "Standard Method of Test for Nitrate in Drinking Water", July 1994, PN-221090-001, Analytical Technology, Inc.



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Copies may be obtained from: App-Orion, 529 Main Street, Boston, MA 02129.

- 9- The procedures shall be done in accordance with the industrial Method No. 129-71W, "Fluoride in Water and Wastewater," December 1972, and Method 300-75WB, "Fluoride in Water and Wastewater," February 1976, "Technique in Industrial Systems," Copies may be obtained from Technicon Industrial Systems, Tarrytown, NY 10591.
- 10- Method 190-2, "Determination of Asbestos Structure Over 10 um in Length in Drinking Water," EPA-600/R-94-134, June 1994. Available at: NPI57-PB94-201902.
- 11- "Methods for the Determination of Inorganic Substances in Environmental Samples," EPA-600/R-93-100, August 1993. NPI57-PB 94-121011.
- 12- Secondary Maximum Contaminant Level (SMCL) non-enforceable Federal guidance for aesthetic quality. Laboratory certification is not required to perform analyses for contaminants with SMCLs.
- 13- Laboratories are not required to be certified to test for pH and water temperature because they are measured in the field. Laboratories are not required to be certified to test for calcium, orthophosphate, nitrate, alkalinity, or conductivity because these parameters are generally used to assist water systems and states in determining the best corrosion control treatment. These measurements must be made with an approved method and conducted by a party approved (not certified) by the State.
- 14- Unfiltered, no digestion or hydrolysis.

(Source: Repealed at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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Section 183. APPENDIX B Methodology and Required Equipment for Regulated Organic Chemical Analyses of Public Water Supply Samples (Repealed)

Agency Note: For the purposes of this Appendix B, the following abbreviations are utilized: EPA = U.S. EPA; Methods = SM = Standard Methods; GC = Gas Chromatography; HPLC = Liquid-Liquid Extraction; LSC = Liquid-Solid Extraction; MS = Mass Spectrometry; HPLC = High-Performance Liquid Chromatography; GC/MS = Combination Gas-Chromatography/Mass Spectrometry.

## APPROVED METHODOLOGIES

A. SYNTHETIC ORGANIC CHEMICALS (SOCS)

PARAMETER	METHODOLOGY	EPA	SM
Aldrin	GC7-HBE	500	--
Chlordane	GC7-Microextraction	505	--
DDT	GC7-HBE	500-1	--
Dieldrin	GC/MS7-HBE	525-2	--
Endrin			
Heptachlor			
Heptachlor-Epoxide			
Hexachlorobenzene			
Hexachlorocyclopentadiene			
Indane			
Methoxychlor			
Toxaphene	GC7-HBE	500	--
	GC7-Microextraction	505	--
	GC/MS7-HBE	525-2	--
PBBs (1)-(as-Aroclors)	GC7-Microextraction	505(2)	--
	GC7-HBE	500(2)	--
PBB (1)-(as-deca-chlorobiphenyl)	GC	500A	--
2,4-D	GC7-HBE	515-1	--
2,4,5-TP	GC7-HBE	515-2	--
Binoseb	HPLC	555>	--
Picloram			
Pentachlorophenol	GC7-HBE	515-1	--
	GC/MS7-HBE	525-2	--
	GC7-HBE	515-2	--
	HPLC	555	--
Butapone	GC	515-1	--

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PARAMETER	METHOD	BPA	SM
Alachlor	GC-MS	552-1	--
Atrazine	GC-Microextraction	505(3)	--
Simazine	GC-MS	507	--
	GC/MS7-MS	525-2	--
	GC-MS	500-1	--
Di(2-ethylhexyl)adipate	GC-MS-MS-MS	506	--
Di(2-ethylhexyl)phthalate	GC/MS7-MS	525-2	--
Carbofuran	HPGC	531-1	6610
Oxamyl			
Dibromochloropropane-(DBCP)	GC-Microextraction	504-1	--
Ethylene dibromide-(EBB)	GC-MS	551	--
Benzo(a)pyrene	GC/MS7-MS	525-2	--
	HPGC7-MS	550	--
	HPGC7-MS	550-1	--
Bitquat	HPGC7-MS	549-1	--
Endosulf	GC-MS-MS-MS	540-1	--
Glyphosate	HPGC	547	6651
2,3,7,8-TCDF(Bioxin)	High-Resolution-MS	1013	--
	High-Resolution-MS		
B-1-VOLATILE-ORGANIC-CONTAMINANTS-REGULATED			
PARAMETER	METHOD	BPA	SM
Total-trichloromethanes-(TTHMs)	GC-Purge-and-trap	502-2	--
	GC-MS	551	--
	GC/MS7-Purge-and-trap	524-2	--
Benzene	GC-Purge-and-trap	502-2	--
Dichloromethane	GC/MS7-Purge-and-trap	524-2	--
o-dichlorobenzene			
p-dichlorobenzene			
1,2-dichloroethane			
1,1-dichloroethene			
cis-1,2-dichloroethene			

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PARAMETER	METHOD	BPA	SM
trans-1,2-dichloroethylene			
1,2-dichloropropane			
Bthylbenzene			
Monochlorobenzene			
Styrene			
Polystyrene			
1,2,4-trichlorobenzene			
1,2,3-trichloroethane			
Vinyl chloride			
Xylenes-(total)			
Carbon-tetrachloride	GC-Purge-and-trap	502-2	--
Tetrachloroethylene	GC/MS7-Purge-and-trap	524-2	--
1,1,1-trichloroethane	GC-MS	551	--
Trichloroethylene			
B-1-VOLATILE-ORGANIC-CONTAMINANTS-UNREGULATED			
1,2,3-trichloropropane(5)	GC-Purge-and-trap	502-2	--
	GC/MS7-Purge-and-trap	524-2	--
	GC-Microextraction	504-1	--
Volatile-Organic Contaminants			
Unregulated(475)	GC-Purge-and-trap	502-2	--
	GC/MS7-Purge-and-trap	524-2	--
B-1-SOLUBLE-ORGANIC-CONTAMINANTS(5)			
Butachlor	GC-MS	507	--
	GC/MS7-MS	525-2	--
Metolachlor	GC-MS	507	--
Metribuzin	GC-MS	500-1	--
	GC/MS7-MS	525-2	--
Propachlor	GC-MS	500	--
	GC-MS	500-1	--
	GC/MS7-MS	525-2	--
Aldicarb	HPGC	531-1	6610
PARAMETER	METHOD	BPA	SM
Aldicarb-Sulfoxide			
Aldicarb-Sulfone			
Carbaryl			

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## METHOD 806.06Y

BPA

SM

3-hydroxycarbofuran  
Methoxy<sup>1</sup>

Dicamba

GG-5BE

515-1

--

GG-5BE

515-2

--

HPEB

555

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AGENCY NOTES: The methodology specified in Appendix B of this Part refers to the methods, standards, and procedures listed below. Copies of the materials listed below can be inspected at the EPA, 1340 N. 9th St., Springfield, Ill. Analyses for the contaminants in Appendix B shall be conducted using the following United States Environmental Protection Agency (USEPA) methods or their equivalent as approved by USEPA: Methods 502.2, 505, 507, 508, 508A, 515.1 and 531.1 are in Methods for the Determination of Organic Compounds in Drinking Water, EPA-600/4-90-039, December 1990; Revised July 1991. Methods 506, 547, 550, 558.1 and 551 are in Methods for the Determination of Organic Compounds in Drinking Water Supplement I, EPA-600/4-90-020, July 1998. Methods 515.1, 524.2, 540.1, 549.1, 552.1 and 555 are in Methods for the Determination of Organic Compounds in Drinking Water Supplement II, EPA-600/4-90-020, July 1998. Method 92.129, August 1993. Method 1613 is titled "Tetra through Octa-Chlorinated--Bioxin--and--Purans--by--isotope-Dilution--HRGC/HRMS". EPA-821-B-94-005, October 1994. Copies may be obtained from the National Technical Information Service, NTIS, PB91-231400, PB91-146027, PB92-107703 and PB95-104774. U.S. Department of Commerce, 5205 Port Royal Road, Springfield, Virginia 22161. The toll-free number is 800-553-6847. Method 6651 shall be followed in accordance with the 10th edition of "Standard Methods for the Examination of Water and Wastewater", 1992, American Public Health Association, Fifteenth Street, NW, Washington, DC 20005. Method 6610 shall be followed in accordance with the Supplement to the 10th edition of "Standard Methods for the Examination of Water and Wastewater", 1994, American Public Health Association. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005. Other analytical test procedures are contained in Technical Notes on Drinking Water Methods, EPA-600/R-94-173, October 1994. NTIS, PB95-104767. This document also contains approved analytical methods which remain available for compliance monitoring until July 17, 1996. These methods will not be available for use after July 17, 1996. EPA Methods 504.1, 508.1 and 555.2 are available from USEPA-EM557, Cincinnati 45260. The phone number is 513-569-7506.

1. PBs are qualitatively identified as Aroclors and measured for compliance purposes as dechlorobiphenyl.
2. Each system which monitors for PBs shall analyze each sample using either Method 505 or Method 500. If detected in 505 or 500, systems must confirm using Method 500A.
3. A nitrogen-phosphorus detector should be substituted for the electron capture detector in Method 505 for another approved

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method should be used to determine atrazine and simazine if lower detection limits are required. The complete list of unregulated volatile organic chemicals can be found in 48 CFR 141.407.

5- Approval, not certification, granted for unregulated/monitored contaminants.

(Source: Repealed at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Accreditation of Laboratories for Drinking Water, Wastewater and Hazardous Waste Analyses

- 2) Code Citation: 35 Ill. Adm. Code 186

- 3) Section Numbers: Proposed Action:

186.105 Adoption  
 186.110 Adoption  
 186.115 Adoption  
 186.120 Adoption  
 186.125 Adoption  
 186.130 Adoption  
 186.135 Adoption  
 186.140 Adoption  
 186.145 Adoption  
 186.150 Adoption  
 186.155 Adoption  
 186.160 Adoption  
 186.165 Adoption  
 186.170 Adoption  
 186.175 Adoption  
 186.180 Adoption  
 186.185 Adoption  
 186.190 Adoption  
 186.195 Adoption  
 186.200 Adoption  
 186.205 Adoption  
 186.210 Adoption  
 186.215 Adoption  
 186.220 Adoption  
 186.225 Adoption  
 Appendix A Adoption

- 4) Statutory Authority: Implementing and authorized by Section 1401(1)(D) of the Safe Drinking Water Act (42 USC 300f(1)(D)), Subpart C of the National Interim Primary Drinking Water Regulations (40 CFR 141.21 through 141.30 (1991)), the Clean Water Act (32 USC 1251), the Illinois Environmental Protection Act [415 ILCS 5], and authorized by Section 4(o) and (p) of the Illinois Environmental Protection Act [415 ILCS 5/4(o) and (p)].

- 5) A Complete Description of the Subjects and Issues Involved: The proposed rules provide a comprehensive system of accrediting laboratories to perform analyses relating to water pollution, contaminant discharges onto land, and chemical and mineral quality of water distributed by a public water supply. It establishes the analytical methods and updates versions of previously adopted analytical methods for the testing of contaminants in drinking water that are regulated pursuant to the federal Safe Drinking

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Water Act (SDWA) (42 USC 300f (1996)) and the Illinois Environmental Protection Act [415 ILCS 5]. It expands the areas of accreditation which were present in 35 Ill. Adm. Code 183 to include accreditation for analytical methods utilized for water pollution assessment and for contaminant discharges onto land. The proposed rules will facilitate and enable Illinois laboratories to participate in a nationwide laboratory accreditation program that is being developed by the National Environmental Laboratory Accreditation Conference. The proposed environmental laboratory accreditation rules will replace the Illinois Environmental Protection Agency's portion of the Joint Rules on Environmental Laboratory Certification found at 35 Ill. Adm. Code 183.

- 6) Will this proposed rule replace an emergency rule currently in effect?  
 Yes

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed rule amendment contain incorporations by reference? Yes

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a mandate under Section 3 of the State Mandates Act [30 ILCS 805/3].

- 11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking:

Jim Shaw, Manager  
 Laboratory Accreditation Unit  
 Quality Assurance Section  
 Division of Laboratories  
 Illinois Environmental Protection Agency  
 2200 Churchill Road, P.O. Box 19276  
 Springfield, IL 62794-9276  
 217/782-6455

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: The small environmental laboratory will be affected by the new analytical method requirements that will be met as part of this voluntary accreditation program.

- B) Reporting, bookkeeping or other procedures required for compliance: The small environmental laboratory will have to do the reporting, bookkeeping, and other procedures to maintain its accreditation.

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C) Types of professional skills necessary for compliance: This Part requires professional laboratory skills for maintenance of the accreditation.

13) Regulatory Agenda on which this rulemaking was summarized: July 1996, January 1997

The full text of the Proposed Rules begins on the next page:

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## TITLE 35: ENVIRONMENTAL PROTECTION

## SUBTITLE A: GENERAL PROVISIONS

## CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

## PART 186

## ACCREDITATION OF LABORATORIES FOR DRINKING WATER, WASTEWATER AND HAZARDOUS WASTE ANALYSES

Section	Purpose
186.105	Scope and Applicability
186.110	Incorporation by Reference
186.115	Definitions
186.120	Application Process
186.125	Accreditation Procedures and References to Accreditation
186.130	On-Site Evaluations
186.135	Personnel Requirements
186.140	Laboratory Equipment and Materials
186.145	Laboratory Facilities
186.150	Calibration
186.155	Quality Assurance/Quality Control
186.160	Quality Assurance Plan
186.165	Performance Evaluation Sample Testing
186.170	Performance Evaluation Testing Programs
186.175	Fields of Testing
186.180	Sample Acceptance and Receipt
186.185	Record Keeping, Sample Tracking and Reporting
186.190	Subcontracting
186.195	Reciprocity
186.200	Acceptance of Out-of-State Accreditation
186.205	Suspension, Revocation and Denial of Accreditation
186.210	Hearing, Decision and Appeal
186.215	Confidential Documents
186.220	Severability
186.225	Appendix A Required Method Detection Limits (MDL) or Pattern Recognition Levels (PRL) for Drinking Water Laboratory Accreditation

AUTHORITY: Implementing and authorized by Section 1401(1)(D) of the Safe Drinking Water Act [42 USC 300f(1)(D)], Subpart C of the National Interim Primary Drinking Water Regulations [40 CFR 141.21 through 141.30], the Clean Water Act [32 USC 1251], the Illinois Environmental Protection Act [415 ILCS 5], and authorized by Section 4(o) and (p) of the Illinois Environmental Protection Act [415 ILCS 5/4(o) and (p)].

SOURCE: Adopted at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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**Section 186.105 Purpose**

Pursuant to the authority contained in Section 4(n) and (o) of the Illinois Environmental Protection Act [415 ILCS 5/4(n) and (o)], which authorize the Illinois Environmental Protection Agency to establish and enforce minimum standards for the operation of laboratories relating to analyses and laboratory tests for air pollution, water pollution, noise emissions, contaminant discharges onto land, and sanitary, chemical, and mineral quality of water distributed by a public water supply, and to issue certificates of competency to persons and laboratories meeting the minimum standards established by the Agency...and to promulgate and enforce regulations relevant to the issuance and use of such certificates, the Illinois Environmental Protection Agency adopts this Part.

**Section 186.110 Scope and Applicability**

- a) This Part establishes general provisions applicable to the accreditation program for laboratories administered under this Part.
- b) Nothing in this Part shall prevent laboratories from performing any quality control or other tests when the State has not required such tests to be performed by an accredited laboratory.
- c) Unless the contrary is clearly indicated, all references to "Sections" in this Part are to the Ill. Adm. Code, Title 35: Environmental Protection. For example, Section 186.105 of this Part is 35 Ill. Adm. Code 186.105.
- d) Unless the contrary is clearly indicated, all references to singular nouns include the plural noun, and all references to plural nouns include the singular, for example the word "laboratory" also includes multiple "laboratories."

**Section 186.115 Incorporation by Reference**

- a) The Agency incorporates the following documents by reference.
 

"Standard Methods for the Examination of Water and Wastewater," 18th edition (1992), available from the American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005 (referred to as "Standard Methods").

American Society for Testing and Materials (ASTM). Copies of ASTM methods may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959; (610)832-9585.

ASTM E1301-95, "Standard Guide for Proficiency Testing by Interlaboratory Comparisons," approved October 10, 1995 (January 1996).

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National Technical Information Service (NTIS), United States Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161; (800)553-6847.

EPA No. 600/8-91/213, "Standard Operating Procedure for Lead in Paint by Hotplate or Microwave-Based Acid Digestions and Atomic Absorption or Inductively Coupled Plasma Emission Spectrometry" available from NTIS, PB92-114172.

EPA No. 600/4-79-020, "Methods of Chemical Analysis of Water and Wastes" (March 1983), available from the USEPA National Environmental Research Laboratory, Cincinnati, OH 45268.

Association of Official Analytical Chemists (AOAC), 1111 North Nineteenth Street, Suite 210, Arlington, Virginia 22209.

"Quality Assurance for Analytical Laboratories," 2nd edition, 1991, available from AOAC.

"Test Methods for Evaluating Solid Waste, SW846", 3rd edition, Office of Solid Waste and Emergency Response, Environmental Protection Agency, available from the Superintendent of Documents, U.S. Government Printing Office, Room 190, Federal Building, P.O. Box 371959, Pittsburgh, Pennsylvania 15250-7954; (202)783-3238.

1A, "Laboratory Manual Physical/Chemical Properties," 3rd edition.

1B, "Laboratory Manual Physical/Chemical Properties," 3rd edition.

1C, "Laboratory Manual Physical/Chemical Properties," 3rd edition.

EPA No. 570-9-90-008, "Manual For The Certification of Laboratories Analyzing Drinking Water", Appendix A, 3rd edition, September 1992. Office of Water Resource Center (RC-4100), 401 M. Street S.W., Washington D.C. 20460.

"Quality Assurance for Chemical Measurements," from Lewis Publishers Inc., 121 South Main Street, P.O. Drawer 519, Chelsea, Michigan 48118.

b) Incorporations by Reference.

- 1) The Agency incorporates the following Sections of federal regulations by reference:
 

40 CFR 136.3 Table IC, Table IB, Table ID,



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40 CFR 136.4,  
40 CFR 136.5,  
40 CFR 136 Appendix A,  
40 CFR 136 Appendix B,  
40 CFR 136 Appendix C,  
40 CFR 141.23(k),  
40 CFR 141.24(e),  
40 CFR 141.27, and  
40 CFR 143.4.

2) This subsection (b) incorporates no later amendments or editions.

**Section 186.120 Definitions**

For the purposes of this Part, unless otherwise specifically defined or the context clearly requires a different meaning:

"Acceptance limits" means the data quality limits specified for analytical method performance.

"Accreditation" means the issuance by the Agency of certificates of competency to laboratories meeting the minimum standards established by the Agency in this Part. Accreditation is not a guarantee of the validity of the data generated by the accredited laboratory.

"Accredited laboratory" means a laboratory that has met the criteria established by this Part.

"Accrediting authority" means the state or federal agency having the responsibility and accountability to grant accreditation to laboratories.

"Accuracy" means a measure of the degree of agreement between an observed value generated by a specific procedure and a true value. Accuracy includes a combination of random error (precision) and systematic error (bias) components which are due to sampling and analytical operations; a data quality indicator.

"Act" means the Illinois Environmental Protection Act [415 ILCS 5].

"Agency" means the Illinois Environmental Protection Agency.

"ASTM" means the American Society for Testing and Materials, Philadelphia, PA, a not-for-profit, voluntary standards development system.

"Analyte" means a chemical element, chemical compound, or physical property.

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"Analyte of interest" means the chemical element, chemical compound, or physical property for which the laboratory is performing an analysis to determine the quantity in a sample for reporting pursuant to this Part.

"Analyzed reagents" means chemicals analyzed for impurities where the level of impurities is reported in accordance with specifications of the Committee on Analytical Reagents of the American Chemical Society.

"Analytical standard" means a pure compound or a mix of pure compounds used to calibrate an instrument or a piece of equipment. An analytical standard may be traceable to NIST standard reference materials.

"Applicant laboratory" means any laboratory seeking initial accreditation.

"Application" means a verified written request for accreditation containing all the information required in Section 186.125 of this Part.

"Application package" means the application, invoice, accreditation fee and related materials described in Section 186.125 of this Part.

"Approved performance evaluation program" means a performance evaluation program which meets the requirements of Section 186.175 of this Part.

"Approved test methods" means the analytical methods specified in Section 186.180 of this Part.

"Audit" means a thorough, systematic, qualitative examination of a laboratory for compliance with this Part, including but not limited to an examination of any of the following: facilities, equipment, personnel, training, procedures, documentation, record keeping, data verification, data validation, data management, data reporting, or any aspect of the laboratory's activities which affect the laboratory's ability to meet the Agency's conditions for accreditation or comply with this Part.

"Batch" means one to 20 environmental samples of the same matrix that are prepared together with the same process and personnel, using the same lot of reagents with a maximum time between the start of processing of the first and last sample being 24 hours.

"Bias" means the systematic or persistent distortion of a measurement system which causes errors in one direction (that is to say, the expected sample measurement is different from the true value).

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"Blind sample" means a subsample for analysis with a composition known to the submitter. The analyst, analyst-in-training, or technician may know the identity of the sample but not its composition. The laboratory management may know the identity and composition of the blind sample. It is used to test the analyst's, analyst-in-training's, or technician's proficiency in the execution of the measurement system.

"Calibrate" means initial calibration.

"Calibration blank" means a volume of distilled or deionized water containing the same reagents, solvents, acids or preservatives contained in the calibration standards. The calibration blank is used to determine the response of the instrument to the zero concentration of an analyte of interest.

"Calibration standard" means a pure analyte or mix of pure analytes used to calibrate the analytical instrument response with respect to analyte concentration.

"Certificate (certificate of approval)" means a document issued by the Agency to a laboratory that has met the criteria and conditions for accreditation as set forth in this Part. The certificate may be used as proof of accredited status. A certificate is always accompanied with a scope of accreditation.

"Certificate of approval" means certificate.

"Certification" means accreditation.

"Certified laboratory" means an accredited laboratory.

"Certifying authority" means an accrediting authority.

"Chain-of-custody" means an unbroken trail of accountability that ensures the physical security of samples, data, and records.

"Chromatographic range" (that is, early eluting versus late eluting) means the time frame over which analytes move out of the chromatography column.

"Competence" means the ability of a laboratory to meet the Agency's conditions for accreditation and to conform to the criteria contained in this Part.

"Confidence interval" means that range of values, calculated from an estimate of the mean and standard deviation, which is expected to include the population mean with a stated level of certainty.

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"Continuing calibration verification check" means the analysis of a continuing calibration verification check standard to determine the state of calibration of an instrument between recalibrations and meets the requirements of Section 186.155 of this Part.

"Continuing calibration verification check standard" means a pure analyte or mix of pure analytes used to perform the continuing calibration verification check. The source of the analyte may be the same as the source of the calibration standards' source or it may be a second source.

"Controlled access storage" means a refrigerator, cooler, rooms or building in which samples are held and from which samples may be removed only by authorized, laboratory personnel.

"Corrective action" means an action taken by the laboratory to eliminate or correct the causes of an existing nonconformance in order to prevent the reoccurrence of the nonconformance.

"Corrective action plan" means a plan of corrective actions.

"Deficiency" means a failure of a laboratory to meet any requirement of this Part.

"Deficiency report" means a narrative from the Agency which details areas of noncompliance with this Part.

"Desk audit" means an audit of a laboratory's documentation maintained pursuant to this Part.

"Director" means the Director of the Illinois Environmental Protection Agency.

"Document" means any written or pictorial information describing, defining, specifying, reporting, or certifying any activities, requirements, procedures, or results.

"Drinking water" means water used or intended for use as potable water.

"Drinking water analyses" means analyses performed on water used or intended for use as potable water.

"Drinking water sample data" means analytical results generated by drinking water analysis.

"Effective date" means the date of Agency correspondence to a laboratory.

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"Environmental analyses" means measurement information results generated through the analyses of environmental samples.

"Environmental samples" means samples, excluding any laboratory generated quality control samples such as matrix spikes, duplicates, and laboratory control samples, for which the laboratory analytical results will be reported pursuant to this Part.

"Environmental sample data" means measurement data generated through the analysis of environmental samples.

"EPA No. 600/8-91/213" means "Standard Operating Procedure for Lead in Paint by Hotplate or Microwave-Based Acid Digestions and Atomic Absorption or Inductively Coupled Plasma Emission Spectrometry."

"Evidentiary chain-of-custody" means the procedures and records which ensure that an intact, contiguous written record tracing the possession and handling of samples from the point that clean sample containers are provided by the laboratory or the point of sample collection through disposal are maintained.

"Final performance evaluation report" means a statement prepared by the USEPA or an Agency approved performance evaluation program that describes or evaluates a laboratory's performance after the laboratory's analyses of performance evaluation samples.

"In control" means in statistical control and is a single measurement, quality control data point, series of measurements or series of quality control data points which fall within expected limits as determined by the statistical analysis of historical data or in compliance with approved test method specified limits.

"Initial calibration" means the analyses of analytical standards for a series of different specified concentrations of an analyte of interest used to define the linearity and dynamic range of the response of the instrument to an analyte.

"Initial calibration verification check" means analysis of an initial calibration verification check standard to determine the state of calibration of an instrument before sample analysis is initiated and which meets the requirements of Section 186.155 of this Part.

"Initial calibration verification check standard" means a pure analyte or mix of pure analytes used to perform the initial calibration verification check.

"Initial demonstration of method performance study" means the procedures performed by an analyst that preclude the analyst from

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analyzing unknown samples via a new or unfamiliar method prior to obtaining experience as described in Section 186.160 of this Part.

"Inorganic" means all parameters not included in organic parameters.

"Laboratory" means a facility that is equipped and used for the testing of samples for the fields of testing described in Section 186.180 of this Part and the approved test methods specified in Section 186.180 of this Part. A facility including a laboratory and annex within 5 miles of one another may be considered one laboratory.

"Laboratory control sample" means an uncontaminated sample matrix with known quantities of analytes. The analytes shall be obtained from a second source. The laboratory control sample is analyzed exactly like a sample to determine whether the measurement system is performing as expected using the evaluation procedures described in Section 186.160 of this Part and to determine whether the laboratory is capable of making accurate and unbiased measurements.

"Least precise step" means the part of the analytical procedure that results in the greatest error in measurement.

"Linear working range" means the range of concentrations over which the analytical system exhibits a linear relationship between the amount of material introduced into the instrument and the instrument's response.

"Matrix" means the predominant material of which the sample to be analyzed is composed. Sample matrices are:

"Aqueous" means any aqueous sample excluded from the definition of drinking water, potable water, or estuarine waters;

"Drinking water" means water used or intended for use as potable water;

"Non-aqueous liquid" means any organic fluid with <15% settleable solids;

"Solids" means soils, sediments, sludges and other matrices with >15% settleable solids; or

"Chemical waste" means a product or by-product of an industrial process that results in a matrix not previously defined.

"Matrix spike" means an aliquot of matrix, fortified (spiked) with known quantities of specific analytes and subject to the entire analytical procedure in order to determine the effect of the matrix on



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an approved test method's recovery system.

"Matrix spike duplicate" means a replicate matrix spike that is prepared and analyzed in order to determine the precision of the approved test method.

"Measurement system" means any instruments, gauges, tools, devices, equipment, procedures, methods, or aggregates thereof, used to acquire or control sample data generated pursuant to this Part.

"Method" means a procedure or technique for performing an activity (for example sample preparation and sample analysis).

"Method blank" means a sample which does not contain an analyte of interest above an acceptable level and which is processed simultaneously with and under the same conditions as samples being analyzed for analytes of interest.

"Method detection limit" means the minimum concentration of a substance that can be measured and reported with 99% confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix type containing the analyte. Unless specified by the approved test method, the method detection limit shall be determined using the procedures specified in Section 186.160 of this Part.

"Megohm/cm" means megohm per centimeter.

"mg" means milligram.

"uhos/cm" means microns per centimeter.

"Neat compounds" means an undiluted compound.

"NIST" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (formerly National Bureau of Standards).

"Nonconformance" means deficiency of a laboratory to meet any requirement of this Part.

"On-site evaluation" means the physical process of inspecting a laboratory to assess the ability of the laboratory to meet the Agency's conditions for accreditation and to assess the laboratory's conformance with the criteria contained in this Part.

"On-site evaluation deficiency report" means a report generated by the Agency in response to nonconformances noted in the course of a

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laboratory on-site evaluation.

"Operating condition" means the state of the measurement system when samples are analyzed.

"Organic" means all analytes analyzed by all forms of gas chromatography and high pressure liquid chromatography (excluding ion chromatography).

"Out-of-control" means out of statistical control and is a single measurement, quality control data point, series of measurements or series of quality control data points which fall outside expected limits as determined by the statistical analysis of historical data or in compliance with approved test method specified limits.

"Parameter" means an analyte.

"Pattern of peak profile recognition for identification" means a series of chromatographic peaks used to identify multi-component analytes such as the Aroclors, petroleum products, toxaphene and technical chlordane. The series of peaks used to identify a multi-component analyte have characteristic sizes, shapes and retention times.

"Performance evaluation program" means the aggregate of providing rigorously controlled and standardized samples to a laboratory for analysis, reporting of results, statistical evaluation of the results in comparison to peer laboratories and the collective demographics and results summary of all participating laboratories.

"Performance evaluation sample" means a sample prepared and supplied either by the Agency or an Agency approved performance evaluation program, whose composition is unknown to the laboratory management, analyst, analyst-in-training, and technician. The performance evaluation sample is provided to test whether the laboratory can produce analytical results within specified performance limits.

"Performance evaluation testing" means the determination of laboratory performance by means of comparing and evaluating tests on the same or similar items or materials by two or more laboratories in accordance with predetermined conditions.

"Performance evaluation study" means a single testing event within a performance evaluation program.

"Plan of corrective action" means a report, including specific items addressed and specific dates of completion, generated by a laboratory in response to an Agency issued notification of nonconformance with

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this Part.

"Precision" means the measure of mutual agreement among individual measurements of a sample, usually under prescribed similar conditions, usually expressed as the standard deviation, variance, or range, in either absolute or relative terms.

"Preliminary performance evaluation report" means a statement prepared by a laboratory which is sent to the USEPA or an Agency approved performance evaluation program which lists the laboratory's results obtained from the analyses of performance evaluation samples and the approved test method used to obtain the results.

"Quality assurance" means an integrated system of activities involving planning, quality control, quality assessment, reporting, and quality improvement to ensure that a product or service meets the requirements of this Part.

"Quality assurance plan" means a written description of the laboratory's integrated system of activities involving planning, quality control, quality assessment, reporting and quality improvement to ensure that a product or service meets defined standards of quality with a stated level of confidence.

"Quality control" means the overall system of technical activities whose purpose is to measure and control the quality of a product or service so that it meets the needs of users.

"Quality control acceptance limits" means the statistically determined or approved test method specified limits within which a single measurement, quality control data point, series of measurements or series of quality control data points will fall when the analytical process is producing data of satisfactory quality.

"Quality control chart" means a graphical plot of data points used to demonstrate statistical control and monitor a measurement process. The charts have a vertical scale plotted in units of the analytical results, a horizontal scale in units of time or sequence of results, and lines within which or around which the data points are expected to lie.

"Quality control check sample" means aliquot of method blank fortified with a solution of the analytes of interest of known concentration. The quality control check sample is used to check either laboratory or instrument performance.

"Quality control procedures" means the activities used to measure and monitor the accuracy and reliability of an analytical procedure or

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method.

"Quantitating" means the arithmetic process of determining the amount of analyte in a sample.

"Replicate sample" means two equal aliquots taken from the same sample container and analyzed independently for the same constituent.

"Revocation" means the withdrawal of all or part of a laboratory's accreditation by the Agency.

"Sample" means any solution or media introduced into an analytical instrument on which an analysis is performed excluding calibration standards, initial calibration verification check standards, calibration blanks, and continuing calibration verification check standards.

"Sample duplicate" means two samples taken from and representative of the same population and carried through all steps of the sampling and analytical procedures in an identical manner. Sample duplicates are used to assess variance of the total method including sampling and analysis.

"Scope of accreditation" means a document issued by the Agency which lists the field-of-testing, approved test methods, and analytes for which the laboratory is accredited.

"Second source" means obtained from different vendor or manufacturer, or different lots from the same vendor or manufacturer.

"Spike concentration" means a specified amount of an analyte of interest in a matrix spike, laboratory control sample, or quality control check sample.

"Stable" means resistant to displacement or change.

"Standard operating procedure (SOP)" means a written, laboratory specific document which details the method of an operation, analysis or action whose techniques and procedures are thoroughly prescribed and which is accepted as the method for performing certain routine or repetitive tasks.

"Statistical outlier test" means a mathematical process for determining that an observation is unusually large or small relative to the other values in a data set.

"Surrogate" means an organic compound which is similar to the analytes of interest in chemical composition and behavior in the analytical

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process, but which is not normally found in environmental samples.

"Suspension" means the temporary removal of all or part of a laboratory's accreditation for a defined period of time. The purpose of suspension is to allow a laboratory time to correct deficiencies or areas of noncompliance with program requirements as defined by this Part.

"Standard Methods" means Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992.

"Test" means a technical operation that consists of the determination of one or more characteristics or performances of a given product, material, equipment, organism, physical phenomenon, process or service according to a specified procedure.

"True value" means the accepted or actual value of the quantity being measured.

"USEPA" means the United States Environmental Protection Agency.

"USEPA Water Pollution (WP) Performance Evaluation Study" means a performance evaluation program sponsored by the USEPA in which participation may be established by contacting the Illinois Environmental Protection Agency, Bureau of Water, Compliance Assurance, P.O. Box 19276, Springfield, Illinois 62794-9276.

"USEPA Water Supply (WS) Performance Evaluation Study" means a performance evaluation program sponsored by the USEPA in which participation may be established by contacting the Illinois Environmental Protection Agency, Division of Laboratories, Quality Assurance Section, Environmental Laboratory Accreditation Program, P.O. Box 19276, Springfield, Illinois 62794-9276.

"Validation" means confirmation by examination and provision of objective evidence that the particular requirements for a specific intended use are fulfilled. Validation is the process of examining a sample result to determine conformance with users' needs.

"Verification" means confirmation by examination of and provision of objective evidence that specified requirements have been fulfilled. Verification is the process of examining a result of a given activity to determine conformance with this Part.

## Section 186.125 Application Process

- a) All laboratories accredited or seeking accreditation shall annually submit by certified mail a completed application package in the

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manner described in this Section.

- 1) The Agency shall send, no later than 90 days prior to the anniversary date of initial certification, an application package to the accredited laboratories.
- 2) The Agency shall send, upon request, an application package to those laboratories seeking initial accreditation, acceptance of out-of-state accreditation or reciprocity.
- b) All laboratories accredited or seeking accreditation shall annually submit by certified mail appropriate fees as required in Section 17.8 of the Act.
- c) All laboratories accredited or seeking accreditation shall simultaneously submit the application package and the appropriate fees.
  - 1) The Agency shall send written notification to an accredited laboratory that submits the appropriate fees and fails to submit an application package. The Agency will revoke the laboratory's accreditation if the laboratory fails to submit an application package within the 15 days after receipt of its subsection (c)(1) written notification.
  - 2) The Agency shall send written notification to an accredited laboratory that submits an application package and fails to submit the appropriate fees. The Agency will revoke the laboratory's accreditation if the laboratory fails to submit the appropriate fees within the 15 days after receipt of its subsection (c)(2) written notification.
  - 3) The Agency shall send written notification to an accredited laboratory that fails to submit the appropriate fees and fails to submit an application package. If the laboratory fails to submit the appropriate fees and application package within the 15 days after receipt of its subsection (c)(3) written notification, the laboratory's accreditation will expire and the laboratory may reapply for initial accreditation.
  - 4) If a laboratory seeking initial accreditation submits a completed application package but does not submit the appropriate fees by the date indicated by the Agency, the application package will be mailed back to the laboratory with a letter of refusal.
  - 5) If a laboratory seeking initial accreditation submits the appropriate fees but does not submit an application package, the Agency will notify the laboratory in writing within 15 days after receipt of the fees. If the laboratory does not submit the application package within the date specified in the Agency's notification, the laboratory's accreditation request shall be denied.
- d) The application package requests information that is essential for accreditation.
  - 1) The laboratory shall include the following information in its completed application:
    - A) purpose of the application (new or a renewal of



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## accreditation);

- B) the complete laboratory name;
  - C) the laboratory mailing address;
  - D) the telephone number, electronic mail address and telefacsimile numbers for the laboratory;
  - E) the name of the laboratory owner;
  - F) the name of the laboratory contact person for the accreditation program;
  - G) the name of the laboratory quality assurance officer;
  - H) the laboratory hours of operation;
  - I) the type of laboratory, for example, commercial, federal, public water system, other;
  - J) the fields-of-testing for which the laboratory is requesting accreditation, pursuant to Section 186.180 of this Part;
  - K) the name, education and experience of the laboratory director, pursuant to Section 186.140 of this Part;
  - L) the name, education and experience of laboratory supervisors, quality assurance officer, analysts, analysts-in-training and technicians, pursuant to Section 186.140 of this Part;
  - M) the approved test methods and analytes for which the laboratory is requesting accreditation, pursuant to Section 186.180(b) of this Part; and
  - N) the laboratory's quality assurance plan, pursuant to Section 186.165 of this Part.
- 2) Laboratories seeking initial accreditation additionally must submit:
- A) the most recent preliminary and final laboratory performance evaluation (PE) sample results according to Section 186.170 of this Part;
  - B) the most recent method detection limit (MDL) study for each analyte and approved test method for which the laboratory is seeking accreditation, pursuant to Section 186.160 of this Part;
  - C) the most recent, analyst specific initial demonstration of method performance (IDMP) study for each analyte and approved test method for which the laboratory is seeking accreditation, pursuant to Section 186.160 of this Part;
  - D) the most recent linear dynamic range or linear calibration range determination for each analyte and approved test method (as applicable) for which the laboratory is seeking accreditation, pursuant to Section 186.160 of this Part.
- 3) Laboratories that are renewing accreditation may clearly indicate on the application that the information required in subsections (d)(1)(C) through (N) has not changed in lieu of resubmitting the information required in those subsections.
- 4) Laboratories that are renewing accreditation may be required to submit documentation pursuant to Section 186.190 of this Part,

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verifying compliance with the requirements of this Part. The Agency will randomly select the documentation required. The documentation required will be selected from, but is not limited to:

- A) initial calibration of instrumentation and equipment pursuant to Section 186.155 of this Part;
  - B) continuing calibration verification (CCV) check standard analyses for instrumentation and equipment pursuant to Section 186.155 of this Part;
  - C) method blank analyses pursuant to Section 186.160 of this Part;
  - D) matrix spike analyses pursuant to Section 186.160 of this Part;
  - E) laboratory control sample analyses pursuant to Section 186.160 of this Part;
  - F) matrix spike duplicate and sample duplicate analyses pursuant to Section 186.160 of this Part;
  - G) surrogate compound analyses pursuant to Section 186.160 of this Part;
  - H) tabulations of quality control sample results pursuant to Section 186.160 of this Part;
  - I) quarterly quality control sample analyses pursuant to the approved test methods and Section 186.160 of this Part;
  - J) analyst specific IDMP study pursuant to Section 186.160 of this Part;
  - K) MDL study pursuant to Section 186.160 of this Part;
  - L) linear dynamic range or linear calibration range determination pursuant to the approved test methods and to Section 186.160 of this Part;
  - M) data from the analyses of PE samples pursuant to Section 186.170 of this Part;
  - N) receipt, use, and traceability of analytical reagents and standards pursuant to Section 186.190 of this Part;
  - O) administrative records pursuant to Section 186.190 of this Part; and
  - P) chain-of-custody records pursuant to Section 186.190 of this Part.
- 5) The laboratory director shall sign and date the application package, and attest in writing to the validity of the information contained within the application package.
- e) Starting one year after the adoption of this Part, the Agency will review, within 30 days after receipt of the application package submitted by a laboratory, the application package and respond in writing to the laboratory.
- 1) The Agency will not approve the application package if it notes deficiencies. The Agency will send a deficiency report to the laboratory listing the areas of nonconformance and require corrective actions or allow the laboratory to withdraw all or

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part of its accreditation request.

- A) The laboratory shall respond with written corrective actions within 30 days after receipt of the Agency's subsection (e)(1) notification. The Agency will review the written corrective actions within 15 days after receipt of the laboratory's response.
- B) If the subsection (e)(1)(A) written corrective actions submitted by the laboratory do not meet the requirements of this Part, the Agency will notify the laboratory that it must submit additional written corrective actions within 15 days after the laboratory's receipt of notification pursuant to this subsection (e)(1)(B). The Agency will review the laboratory's additional written corrective actions within 15 days after the Agency's receipt of the laboratory's response.
- C) If the additional written corrective actions submitted by the laboratory pursuant to subsection (e)(1)(B) do not meet the requirements of this Part, the Agency will reject the application package.
  - D) If the Agency rejects the application package:
    - i) a laboratory seeking initial accreditation is denied accreditation; and
    - ii) an accredited laboratory's accreditation is revoked.
- 2) The Agency will approve an application package that contains all of the required information. After approval of the application package, the Agency will schedule an on-site evaluation pursuant to Section 186.135 of this Part.

## Section 186.130 Accreditation Procedures and References to Accreditation

- a) Accreditation is valid for one year. Accredited laboratories may renew accreditation on an annual basis provided applicable annual fees are paid, the annual application package is submitted and all applicable provisions of this Part are met.
  - 1) Accreditation is based on the field of testing, the approved test method and the analyte according to Section 186.180 of this Part.
  - 2) The requirements of this Part are applicable to all laboratories that are accredited or are seeking accreditation regardless of their size, volume of business, or field of testing.
  - 3) There shall be no lapse in the accreditation if, by the anniversary date of the initial certification as set forth in 35 Ill. Adm. Code 185, the Agency is in receipt of the laboratory's application package or applicable fees. Submission and receipt of the laboratory's application package or applicable fees initiates the renewal of accreditation.
  - 4) Accreditation remains in effect until:
    - A) suspended or revoked by the Agency according to Section 186.210 of this Part or Section 186.215 of this Part;

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- B) discontinued at the written request of the accredited laboratory; or
- C) expiration of accreditation date.
- 5) An accredited laboratory may make a written request to add fields of testing, approved test methods and analytes to its scope of accreditation. The Agency will:
  - A) not conduct an on-site evaluation if the competence of the laboratory to perform the additional fields of testing, approved test methods or analytes can be verified; or
  - B) conduct an on-site evaluation if the additional fields of testing, approved test methods or analytes require the use of a chemical process, an analytical process, instrument, or piece of equipment that the laboratory has not been previously accredited to use.
- 6) The Agency will complete an initial on-site evaluation of a laboratory. After initial accreditation of a laboratory, the Agency will complete subsequent, routine on-site evaluations on a biennial basis.
- 7) The Agency will accredit a laboratory with an annex within 5 miles of the facility as one laboratory.
- 8) Out-of-state laboratories requesting accreditation from the Agency shall meet the applicable requirements outlined in Section 186.200 of this Part or Section 186.205 of this Part.
- b) The laboratory shall:
  - 1) provide information annually on laboratory facilities, personnel, methodology, instrumentation, data handling, and the laboratory's quality assurance program by completing and filing a completed application package with the Agency pursuant to Section 186.125 of this Part;
  - 2) pay all fees associated with seeking or renewing accreditation according to Section 17.8 of the Act and 35 Ill. Adm. Code 185;
  - 3) meet personnel requirements specified in Section 186.140 of this Part;
  - 4) meet equipment and materials requirements specified in Section 186.145 of this Part;
  - 5) meet laboratory facility requirements specified in Section 186.150 of this Part;
  - 6) calibrate equipment as specified in Section 186.155 of this Part;
  - 7) perform quality control procedures and submit a quality assurance plan as specified in Section 186.160 of this Part and Section 186.165 of this Part;
  - 8) analyze and submit data for all PE samples according to Section 186.170 of this Part;
  - 9) utilize approved test methods as specified in Section 186.180 of this Part and contained in the documents incorporated by reference in Section 186.115 of this Part;
  - 10) meet sample handling procedures as specified in Section 186.185 of this Part;

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- 11) maintain records, track samples, report data and perform corrective actions as specified in Section 186.190 of this Part;
  - 12) cooperate with identified Agency accreditation officers during on-site evaluations by facilitating:
    - A) examination of required records,
    - B) access to all testing areas,
    - C) access to personnel, and
    - D) clear communication with laboratory personnel;
  - 13) correct deficiencies identified during the on-site evaluation within the deadlines established in Section 186.135 of this Part;
  - 14) subcontract analytical work to laboratories by following procedures in Section 186.195 of this Part;
  - 15) perform all accredited environmental analyses in accordance with this Part;
  - 16) adjust its procedures in response to amendments by the Agency or USEPA in the criteria, requirements, or conditions for accreditation; and
  - 17) upon demand by the Agency, submit documentation maintained pursuant to Section 186.190 of this Part, verifying compliance with the requirements of this Part.
- c) The Agency will approve, renew or deny an accreditation request based on its evaluation of the laboratory's ability to meet the requirements outlined in subsection (b). The Agency will:
- 1) approve a laboratory's accreditation request;
  - 2) renew a laboratory's accreditation;
  - 3) deny a laboratory's accreditation request in the form of a narrative and may give information as to how deficiencies may be corrected; or
  - 4) allow a laboratory to withdraw its accreditation request in whole or in part.
- d) Laboratories shall represent their accreditation status and utilize certificates of approval, scopes of accreditation, and the Agency's name only as described in this subsection (d).
- 1) The Agency will issue certificates of approval and may issue scopes of accreditation. These documents may include the following items:
    - A) the name and address of the laboratory;
    - B) the fields of testing for which the laboratory is accredited;
    - C) the analytes for which the laboratory is accredited;
    - D) the approved test methods including the date of the version or revision number for which the laboratory is accredited;
    - E) the date of the laboratory's most recent on-site evaluation;
    - F) the expiration date of the laboratory's accreditation;
    - G) the signature of an Agency accreditation officer;
    - H) the signature of the Agency's Division of Laboratories' manager;
    - I) the signature of the Director;

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- J) reference to this Part;
  - K) a statement that continued accreditation depends on successful, ongoing participation in the program;
  - L) a statement that urges a customer to contact the Agency to verify the laboratory's current accreditation status;
  - M) a formal statement recognizing the laboratory's competence and compliance with the requirements of this Part;
  - N) the insignia of the National Environmental Laboratory Accreditation Conference;
  - O) the Agency's logo;
  - P) a unique laboratory identification code; and
  - Q) the statement, "Accreditation by the State of Illinois is not an endorsement or a guarantee of the validity of the data generated."
- 2) The Agency will issue a certificate of approval to laboratories accredited pursuant to Section 186.200 of this Part or Section 186.205 of this Part that includes the following items:
- A) the information stated in subsections (d)(1)(A), (B), (C), (D), (F), (G), (H), (I), (N), (O), (P) and (Q);
  - B) a reference that accreditation is issued pursuant to Section 186.200 of this Part or Section 186.205 of this Part, as applicable.
    - i) For accreditations issued pursuant to Section 186.200 of this Part, the certificate of approval shall contain a statement that continued accreditation by the Agency under this Part depends on successful ongoing participation in the home state's program.
    - ii) For accreditation issued pursuant to Section 186.205 of this Part, the certificate of approval shall contain a statement that continued accreditation by the Agency under this Part depends on successful ongoing participation in the applicable state or federal accreditation program; and
  - C) a statement that urges a customer to contact the laboratory's applicable accrediting authority to verify the laboratory's current accreditation status and scope of accreditation.
- 3) Laboratories shall post or display their most recent certificate of approval and scope of accreditation in a prominent place in the laboratory facility.
- 4) The Agency will issue a new certificate of approval and scope of accreditation if there is a change in the laboratory's accreditation status.
- 5) Laboratories shall not make any statements concerning their accreditations or accreditation status that are misleading or unauthorized.
- 6) Laboratories shall not use their certificates of approval or accreditation status to imply endorsement by the Agency.



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- 7) If a laboratory uses the Agency name or makes reference to its accreditation status in any advertising, business solicitation, proposal, or quotation, the laboratory shall:
  - A) prominently include the statement that, "Accreditation by the State of Illinois is not an endorsement or a guarantee of the validity of the data generated.";
  - B) distinguish between proposed testing for which the laboratory is accredited and proposed testing for which the laboratory is not accredited;
  - C) include the laboratory's unique identification code; and
  - D) include a statement that urges customers to verify the laboratory's accreditation status or scope of accreditation by contacting the Agency or the applicable accrediting authority.
- 8) Upon voluntary surrender, revocation, withdrawal or expiration of their accreditations, laboratories shall:
  - A) discontinue use of all advertising matter that contains reference to their accreditation status; and
  - B) return any certificates of approval or scopes of accreditation to the Agency.
- 9) Laboratories shall not use the Agency logo in any manner.
- 10) The laboratory shall accompany the Agency's name with at least the word "accredited" and the laboratory's unique identification code when the Agency's name is used on general literature such as letterheads and business cards.
- 11) The Agency will take suitable actions which could include legal action when incorrect references to the Agency or misleading use of the laboratory's accreditation status is found in advertisements, catalogs or other materials.
- e) Laboratories shall notify the Agency in writing within 30 days after a change of ownership, legal status, laboratory director, quality assurance officer, supervisor, analyst, major instrument type as listed in Section 186.140(g) of this Part, major remodeling of a laboratory, or relocation of the physical facility.
  - 1) Laboratories shall provide the Agency with:
    - A) the identity of any new owners;
    - B) the qualifications of any new directors, supervisors, quality assurance officers and analysts;
    - C) a description of any relocation or remodeling of the physical facility; and
    - D) in the event of a change in instrument type, the quality control measurement data according to Section 186.125 of this Part when submitting the written notification required in this subsection (e).
- 2) In the event of a change in laboratory personnel, the Agency:
  - A) will review the qualifications of any new director, supervisor, quality assurance officer or analyst;
  - B) will require the generation of IDMP data by any new analyst

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- and submittal of the resultant data to the Agency by the laboratory; and
- C) may require the analysis of PE samples and submittal of the resultant data to the Agency by the laboratory.
- 3) The Agency may, in the event of laboratory relocation or remodeling:
  - A) require reaccreditation or reapplication in any or all of the fields of testing in which the laboratory is currently accredited; and
  - B) conduct an on-site evaluation to verify effects of such a change on laboratory performance.
- 4) Transfer of Accreditation
  - A) Accreditation shall be transferable when the following conditions are in effect:
    - i) the previous (transferring) owner must agree in writing, before the transfer of ownership takes place, to be accountable and liable for any analyses, data and reports generated up to the time of legal transfer of ownership; and
    - ii) the buyer (transferee) must agree in writing to be accountable and liable for any analyses, data and reports generated after the legal transfer of ownership occurs.
  - B) All records and analyses performed pertaining to accreditation must be kept as specified in Section 186.190(k) of this Part and are subject to inspection by the Agency during this period without prior notification to the laboratory. This stipulation is applicable regardless of change in ownership, accountability or liability.
  - C) If ownership is transferred, the transferee will not be responsible for payment of fees to the Agency during the remainder of the yearly period, provided that the previous owner has fully paid the required fees to the Agency.
  - D) Transfer of accreditation pursuant to subsection (e)(4) shall not alter the laboratory's accreditation status.
  - E) The laboratory shall submit a copy of the agreement pursuant to subsection (e)(4) to the Agency prior to transfer of ownership.
- f) Agency accreditation officers have authority to:
  - 1) conduct on-site evaluations;
  - 2) audit and review any records or documentation as required to verify compliance with the requirements for accreditation and the requirements of this Part;
  - 3) require the laboratory to provide information regarding the laboratory's technical operation relevant to accreditation;
  - 4) observe and question analysts at work on approved test methods for which accreditation is sought;
  - 5) recommend the granting, denial, suspension or revocation of

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accreditation based upon:

- A) the completion of the accreditation process; or
  - B) evaluation of the laboratory's ability to meet all requirements of this Part; and
- 6) require or make subsequent, unannounced on-site evaluations during regular working hours.
  - 9) Annually, the Agency will publish and distribute a list of accredited laboratories.
    - 1) The publication shall specify fields of testing and approved test methods for which the laboratories are accredited.
    - 2) The Agency will make the publication available to all requesters and distribute it to all accredited laboratories.
  - h) The Agency will report to the national laboratory accreditation database, managed by the USEPA, any information related to the requirements outlined in subsection (b).

**Section 186.135 On-Site Evaluations**

The Agency will conduct routine on-site evaluations of a laboratory at least once every two years.

- a) Prior to accrediting a laboratory, the Agency or its designee will perform an initial on-site evaluation of the laboratory. The Agency or its designee will arrange the initial on-site evaluation at the mutual convenience of the parties.
- b) The Agency may make subsequent on-site evaluations, announced or unannounced, to a laboratory whenever such an evaluation is necessary to determine the extent of the laboratory's compliance with the conditions of the laboratory's accreditation and the requirements of this Part.

1) Situations that warrant subsequent on-site evaluations include, but are not limited to:

- A) a major laboratory change as specified in Section 186.130 of this Part;
  - B) the laboratory's failure to acceptably analyze a PE sample;
  - C) discrepancies with PE sample results;
  - D) complaints from the public;
  - E) requests from Agency personnel;
  - F) past on-site deficiencies;
  - G) errors in reporting data to the Agency; or
  - H) suspicion of fraud or falsification of data.
- 2) On-site evaluations may include observing the analysis of PE samples, and photocopying of documentation relating to the laboratory's accreditation.
  - 3) Upon written consent by the Agency and laboratory, the Agency or laboratory may audiotape, videotape or film laboratory activities relating to the laboratory's accreditation.
- c) The Agency will attempt to conduct an on-site evaluation of an applicant laboratory within four months after approval of an

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application package.

- 1) The Agency shall contact the applicant laboratory within 15 days after approval of an application package to schedule the on-site evaluation.
- 2) If the evaluation is not conducted within four months due to delays posed by the applicant laboratory, the Agency shall deny accreditation. Delays caused by the applicant laboratory include, but are not limited to:
  - A) unavailability of laboratory personnel for the scheduled on-site evaluation, or
  - B) denial of entry into the laboratory.
- 3) The laboratory may reapply for accreditation as specified in Section 186.130 of this Part.
- d) The purpose of the on-site evaluation is to verify compliance with the requirements of this Part including:
  - 1) accuracy of application information;
  - 2) laboratory's quality assurance/quality control procedures;
  - 3) use of approved test methods;
  - 4) laboratory facilities and equipment;
  - 5) data handling, record keeping, and reporting procedures;
  - 6) sample collection, receipt, tracking, and storage procedures;
  - 7) qualification and experience of laboratory management and personnel;
  - 8) laboratory waste disposal procedures; and
  - 9) quantity, condition, and performance of laboratory instrumentation.
- e) The Agency will send to the laboratory an on-site evaluation deficiency report within 30 days after completion of the on-site evaluation. This report will include the specific deficiencies noted during the Agency's on-site evaluation of the laboratory and require corrective actions.
  - 1) If the Agency does not include any deficiencies, the laboratory shall be accredited.
  - 2) If during the on-site evaluation, the accreditation officer determines that the laboratory had falsified the information included in its application package, the Agency shall revoke or deny the laboratory accreditation.
- f) The laboratory shall submit a plan of corrective action to the Agency within 30 days after the receipt of the on-site evaluation deficiency report.
  - 1) The plan of corrective action must detail those specific actions taken by the laboratory to correct all deficiencies noted by the inspecting accreditation officer during the on-site evaluation.
  - A) The plan of corrective action shall clearly indicate those corrective actions that have been implemented, the date implemented, and the documentation substantiating implementation.
  - B) The plan of corrective action shall clearly indicate those

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corrective actions which have not been implemented and a projected date by which the corrective actions will be implemented, and the date documentation substantiating implementation will be submitted to the Agency.

- 2) The laboratory shall implement the corrective actions within 60 days after receipt of the on-site evaluation deficiency report.
- 3) The Agency may extend this period of implementing corrective actions for a maximum of 30 days upon receipt of the laboratory's written petition and plan of corrective action. The Agency shall determine whether the laboratory's petition warrants an extension based upon whether the need for the extension is to facilitate:
  - A) the purchase of a new instrument;
  - B) revision of a standard operating procedure or quality assurance plan;
  - C) replacement of significant laboratory personnel;
  - D) repeating the MDL study; or
  - E) repeating the IDMP studies.

The Agency shall consider other reasons submitted by the laboratory in which the laboratory demonstrates that corrective actions cannot be implemented within 60 days after receipt of the on-site evaluation deficiency report.

- 4) The Agency shall deny or revoke the accreditation of any laboratory that fails to submit a plan of corrective action. The laboratory may reapply for accreditation as specified in Section 186.130 of this Part.

- g) The Agency shall review the plan of corrective action and respond in writing to the laboratory within 15 days after receipt of the plan of corrective action from the laboratory.

- 1) If the laboratory corrects all deficiencies, the Agency shall accredit the laboratory.

- 2) If the laboratory's plan of corrective action does not address all deficiencies, the Agency will notify the laboratory by certified mail that it must submit a second plan of corrective action for the remaining deficiencies within 15 days after its receipt of this notification.

- 3) The Agency shall deny or revoke the accreditation of any laboratory that fails to submit a second plan of corrective action by the date established by the Agency in the subsection (g)(2) notice.

- h) The Agency shall review the second plan of corrective action within 15 days after receipt of the second plan of corrective action from the laboratory.

- 1) If the laboratory corrects all remaining deficiencies, the Agency shall accredit the laboratory.

- 2) If all deficiencies are not corrected and documentation substantiating implementation is not submitted to the Agency, pursuant to subsections (f)(1)(A) and (B), and the remaining deficiencies affect certain approved test methods and analytes,

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the Agency shall deny or revoke accreditation for those approved test methods and analytes.

- 3) If all deficiencies are not corrected and documentation substantiating implementation is not submitted to the Agency, pursuant to subsections (f)(1)(A) and (B), and the remaining deficiencies affect the entire laboratory, the Agency shall deny or revoke the entire accreditation.

- i) Laboratories that are located outside of the State of Illinois and who seek accreditation pursuant to this Part that are not subject to the provisions of Section 186.205 of this Part or Section 186.200 of this Part shall pay for all travel costs related to accreditation.

## Section 186.140 Personnel Requirements

- a) The laboratory owner shall designate at least one individual as laboratory director. The laboratory director shall:
  - 1) hold a minimum of a bachelor's degree in natural or physical sciences or have completed enough course work in chemistry to equal a minor in chemistry;
  - 2) have had a minimum of two-years experience managing a laboratory;
  - 3) be either an employee or a consultant of the laboratory; and
  - 4) be responsible for:
    - A) analytical and operational activities of the laboratory;
    - B) supervision of personnel employed by the laboratory;
    - C) assuring that sample acceptance criteria are met, that samples are logged into the sample tracking system, that samples are properly labeled and that samples are properly stored;
    - D) the production and quality of data reported by the laboratory;
    - E) designating laboratory supervisors; and
    - F) designating one individual as the quality assurance officer.

- b) The laboratory owner or director shall designate at least one individual as laboratory supervisor. The laboratory supervisor shall:
  - 1) hold a minimum of a bachelor's degree in natural or physical sciences or have completed enough course work in chemistry to equal a major in chemistry;
  - 2) have had a minimum of one year of experience in the analyses pertaining to the applicable fields of testing;
  - 3) be an employee of the laboratory; and
  - 4) be responsible for:
    - A) supervising analysts, analysts-in-training and technicians in the area of analytical responsibility;
    - B) reviewing and verifying data produced by an analyst-in-training; and
    - C) reviewing and verifying data produced by a technician.

- c) The laboratory owner may designate a laboratory supervisor as laboratory director. The laboratory director/supervisor must fulfill



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the requirements of subsections (a)(2) and (4) and (b).  
d) The laboratory director shall designate at least one individual as the quality assurance officer. The quality assurance officer shall:

- 1) hold a bachelor's degree in natural or physical sciences or have completed enough course work in chemistry to equal a major in chemistry;
- 2) have a minimum of one year experience as an analyst in a laboratory and have documented training in quality assurance and quality control (QA/QC);
- 3) where applicable, have functions independent from laboratory operations;
- 4) have a general knowledge of the analytical methods for which data review is performed;
- 5) be an employee of the laboratory; and
- 6) be responsible for:
  - A) coordinating QA/QC procedures and analytical data review procedures in the laboratory;
  - B) verifying that the requirements in Section 186.160 of this Part are met; and
  - C) conducting internal audits of the entire laboratory operation annually.

e) The laboratory director or supervisors shall designate the analysts. Analysts shall:

- 1) hold a bachelor's degree in natural or physical sciences or have completed enough course work in chemistry to equal a major in chemistry;
- 2) have had a minimum of one year experience in the analyses pertaining to the applicable fields of testing for which the laboratory is seeking accreditation;
- 3) for those instruments listed in subsection (g) below:
  - A) either:
    - i) have satisfactorily completed a minimum of four hours training that is offered by the equipment manufacturer, a professional organization, a university or another qualified training facility; or
    - ii) served a two-week period of apprenticeship under an experienced analyst; and
  - B) have on file, documentation indicating acceptable performance on a blind sample at least once per year and a signature certifying that the analyst has read, understood and agreed to perform the most recent version of the method, the approved method or standard operating procedure. Such documentation shall demonstrate that the required training is up-to-date;
- 4) after appropriate training pursuant to subsection (e)(3), perform the IDMP study, as specified in Section 186.160 of this Part;
- 5) be an employee of the laboratory; and
- 6) be responsible for reviewing and verifying data produced by

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analysts-in-training or technicians when a laboratory supervisor does not review and verify the data.

- f) The laboratory directors or supervisors may designate individuals as analysts-in-training. Analysts-in-training must at least meet the requirements in subsection (h) and must be in the process of meeting the requirements of subsection (e). A laboratory supervisor or analyst shall review and verify all data produced by analysts-in-training.
- g) Analyses performed utilizing Atomic Absorption (AA), Ion Chromatograph (IC), Gas Chromatograph (GC), Gas Chromatograph/Mass Spectrometer (GC-MS), Inductively Coupled Plasma (ICP), Inductively Coupled Plasma Mass Spectrometer (ICP-MS), Direct Current Plasma Spectrometer (DCP), Liquid Chromatograph Mass Spectrometer (LC-MS), High Pressure Liquid Chromatograph (HPLC), or Transmission Electron Microscope (TEM) are only acceptable for the purposes of this Part when performed by a laboratory employee who meets the requirements in subsection (e) or (f) above.
- h) A technician is a person who holds a high school diploma or its equivalent. A technician must:
  - 1) either:
    - A) have satisfactorily completed a minimum of four hours training that is offered by the equipment manufacturer, a professional organization, a university or qualified training facility; or
    - B) served a two-week period of apprenticeship under an experienced analyst or technician;
  - 2) after appropriate training pursuant to subsection (e), perform the IDMP study, as specified in Section 186.160 of this Part; and
  - 3) have on file documentation indicating acceptable performance on a blind sample at least once per year and a signature certifying that the technician has read, understood and agreed to perform the most recent version of the method, the approved method or standard operating procedure. Such documentation shall demonstrate that the required training is up-to-date.
- i) A person may be allowed to serve in any capacity as defined in subsections (a) through (h) when the person does not meet the educational or experience requirements for the position. The laboratory shall submit written justification to the Agency explaining why a laboratory director, laboratory supervisor, quality assurance officer, analyst, analyst-in-training, or technician should serve in that position. The written justification shall take into account the following factors:
  - 1) either:
    - A) experience as an offset for educational requirements (such as, as, one year of experience performing the applicable duties equals one year of education); or
    - B) education as an offset for experience requirements (such as, one year of applicable education beyond a bachelor's degree

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- 2) for analysts and technicians, demonstration of ability to properly perform representative test procedures.

## Section 186.145 Laboratory Equipment and Materials

Laboratories shall meet the following equipment and maintenance requirements. Any item of equipment which has been subjected to overloading or mishandling, or which gives questionable results, or has been shown by verification or otherwise to be defective, shall be taken out of service, clearly identified and wherever possible stored at a specific place until it has been repaired and shown by calibration, verification or test to perform satisfactorily. The laboratory shall examine the effect of this defect on previous calibrations or tests. The laboratory shall maintain documentation of all maintenance, calibration and instrument operation activities.

- a) The laboratory shall have, on-site, all equipment specified by the approved test methods for which accreditation is sought.
- b) The laboratory shall have, on-site, the following equipment if the equipment is applicable to the laboratory's accreditation:
  - 1) ASTM type 1 or 2 certified weights to calibrate balances. The laboratory shall ensure that the weights are recertified at least once every five years.
  - 2) analytical balances that provide a sensitivity of at least 0.1 mg.
    - A) The laboratory shall place the balances on a stable base;
    - B) The laboratory shall check each analytical and pan balance at least monthly with a minimum of two ASTM type 1 or 2 weights covering the effective range of the balance's use; and
    - C) A current service contract shall be in effect on all analytical balances.
      - i) The balances shall be serviced and calibrated at least annually by an authorized service representative.
      - ii) The laboratory shall retain a certificate supplied by the authorized service representative which identifies traceability of the calibration to the NIST standards.
  - 3) a pH meter having the accuracy of at least plus or minus 0.1 pH units and a scale readability of at least 0.1 pH units.
    - A) The laboratory shall utilize either a thermometer or a sensor for temperature measurement to make correction for pH measurement. If available, the laboratory may use an automatic compensation device to correct pH measurements according to the current temperature; and
    - B) Laboratory personnel shall calibrate the pH meter before each use, with a minimum of two standardization buffers in the pH range.
  - 4) a conductivity meter with an error not exceeding 1% or one uhos/cm whichever is greater.

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- A) Laboratory personnel shall calibrate the conductivity meter before each use; and
- B) Laboratory personnel shall calibrate the conductivity meter with a standard that reflects the sample conductivity.
- 5) a certified NIST-traceable thermometer with 1°C or finer subdivisions and a range which spans the various requirements of the analytical methods.
  - A) The laboratory shall ensure that the NIST-traceable thermometer is recalibrated at least once every five years.
  - B) The laboratory shall retain a certificate identifying traceability of the calibration to the NIST standards.
- 6) refrigeration units and freezers.
  - A) The laboratory shall identify each refrigerator or freezer in a way that establishes its use and distinguishes it from other refrigerators or freezers in the laboratory.
  - B) The laboratory shall maintain one thermometer per refrigerator or freezer.
    - i) The thermometers shall be graduated in increments no larger than 1°C; and
    - ii) The laboratory shall identify each thermometer in a way that establishes its use and distinguishes it from other thermometers in the laboratory.
  - C) Samples which require thermal preservation shall be stored under refrigeration which is ±2°C of the specified preservation temperature unless method specific criteria exist. For samples with a specified storage temperature of 4°C, storage at a temperature of 0.1° to 6°C shall be acceptable.
  - D) Laboratory personnel shall monitor and document thermometer readings each day the laboratory is in operation.
  - E) The laboratory shall maintain documentation that includes the thermometer identification, refrigerator or freezer identification, date, temperature, initials of the responsible person and the expected temperature.
  - 7) sufficient ovens to comply with the approved test methods.
    - A) The laboratory shall identify each oven in a way that establishes its use and distinguishes it from other ovens in the laboratory.
    - B) The laboratory shall maintain one thermometer for use with each oven.
      - i) The thermometer shall be graduated in increments no larger than 10°C.
      - ii) The laboratory shall identify each thermometer in a way that establishes its use and distinguishes it from other thermometers in the laboratory, such as serial number.
    - C) Laboratory personnel shall monitor each oven's temperature each day of use.

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D) Laboratory personnel shall maintain documentation of the monitoring that shall include the thermometer identification, oven identification, date, temperature, initials of the responsible person and temperature range required by the approved test method.

c) Laboratories utilizing microwave digestion shall check, at least annually and after repairs, the wattage available for heating. The laboratory shall follow the procedures in EPA No. 600/8-91/213.

d) The laboratory shall check the calibration of working liquid-in-glass and digital thermometers on an annual basis against the NIST-traceable thermometer.

1) The comparison shall be made at the temperature at which the thermometer will be used.

2) The laboratory shall determine and employ calibration factors based on the temperature comparisons of the thermometers against the NIST-traceable thermometer.

e) The laboratory shall check the calibration of metal and continuously monitoring thermometers at least quarterly against the NIST-traceable thermometer.

1) The comparison shall be made at the temperature at which the thermometer will be used.

2) The laboratory shall determine and employ calibration factors based on the temperature comparisons of the thermometers against the NIST-traceable thermometer.

f) The laboratory shall monitor and control method specific temperature requirements for incubators, heating blocks and water baths. The laboratory shall maintain documentation of the results.

g) The laboratory shall only use autopipetors and dilutors of sufficient sensitivity for the application and shall check delivery volumes gravimetrically on an annual basis.

h) Laboratory personnel shall calibrate turbidimeters on a daily basis or before each use, whichever is less frequent.

1) Laboratory personnel shall use appropriate range primary standards (Formazin or USEPA approved standards) or secondary standards to calibrate turbidimeters.

2) The laboratory shall crossreference secondary standards against primary standards on a quarterly basis. The secondary standard shall be replaced if the result is not within 15% of the primary standard.

i) The laboratory shall have readily available sources of distilled water or deionized water.

1) The laboratory shall utilize a conductivity meter and shall check the conductivity of distilled and deionized water at least once per day of use.

A) Laboratories utilizing an in-line conductivity meter for daily checks shall also utilize a calibrated conductivity meter which is external to the water system to check the conductivity of distilled and deionized water at least once

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a month from a frequently used access point; or  
B) Laboratories utilizing a conductivity meter which is external to the water system for daily checks shall collect the water from a frequently used access point.

2) The distilled and deionized water shall have resistivity values of at least 0.5 megohm/cm (conductivity less than 2.0 uhos/cm) at 25°C.

j) If color wheels or sealed ampules are used as visual comparison devices for determining free chlorine residual, the laboratory shall calibrate at least every six months the standards incorporated into the devices.

1) The laboratory shall refer to Standard Methods, Method 4500-Cl for directions on preparing temporary and permanent type visual standards.

2) The laboratory shall determine a correction factor by comparing the standards and plotting the comparison on graph paper.

3) The laboratory shall apply the correction factor to future results obtained on the now calibrated apparatus.

k) The laboratory shall utilize analytical standards that are traceable to a national standard when available. The laboratory shall document the traceability to a national standard as specified in Section 186.190 of this Part.

1) The laboratory shall utilize analytical reagents of reagent grade (AR) or better. The laboratory shall document the date received, date opened and any applicable expiration date according to Section 186.190 of this Part.

m) All glassware used for purposes that may subject it to damage from heat or chemicals shall be of borosilicate glass. All volumetric glassware shall be ASTM class A.

## Section 186.150 Laboratory Facilities

The laboratory facilities shall be maintained to permit the production of analytical data that meets the data quality objectives of the applicable environmental regulation.

a) The laboratory shall provide adequate work spaces to ensure an unencumbered work area for performing the approved test methods.

b) The laboratory shall be designed, operated and arranged so that incompatible analyses are separated and the potential for sample contamination is minimized.

c) The laboratory shall have at least one exhaust hood for organic analyses and one for trace metal analyses if applicable.

d) Where safety practices are included as part of an approved test method, the practices shall be strictly followed. While more specific safety criteria are not an aspect of this accreditation program, laboratory personnel should apply general and customary safety practices as a part of good laboratory procedures.



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## Section 186.155 Calibration

a) The laboratory shall perform an initial calibration of all instrumentation and equipment as specified in the approved test method. The laboratory shall use calibration standards from NIST-traceable standards, where available.

b) If the approved test method specifies the generation of an initial calibration curve but does not specify the appropriate number of standards for use in the initial calibration curve, the laboratory shall establish the appropriate number of standards for use in the initial calibration curve using the following procedure:

- 1) Determine a percent relative standard deviation (%RSD) of:
  - A) the analyses of a minimum of seven replicate measurements of a standard with a concentration at one to three times the MDL; or
  - B) the response factors or calibration factors of at least three standards having concentrations that cover the expected calibration range.
- 2) Determine the minimum number of calibration standards to be used in the initial calibration curve by correlating the %RSD determined in subsection (b)(1) with the number of required calibration standards. The %RSD and correlating number of calibration standards are:

%RSD	Number of Calibration Standards
0 - <2	1**
2 - <10	3
10 - <25	5
>25	7

\*\*Assumes linearity through the origin (0.0). For analytes for which there is no origin (such as pH), a two point calibration curve shall be used.

3) The number of calibration standards as determined from the table in subsection (b)(2) and a blank shall be used to generate the initial calibration curve of the approved test method.

4) If the calibration curve generated pursuant to subsection (b)(3) is not linear as defined in subsection (e)(4) and the approved test method allows for the use of non-linear calibration curves, additional calibration standards shall be used to define the calibration (a minimum five calibration standards shall be used for non-linear calibration curves).

c) If the approved test method specifies the generation and use of a calibration curve, all sample results shall be reported from sample analyses within the range of the calibration curve, except when the approved test method specifically allows otherwise (for example ICP analyses above the highest calibration standard concentration but

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within the linear dynamic range as established by the laboratory pursuant to the applicable approved test method).

d) Where the sample results will be used in a decision related to the determination of a non-occurrence of an analyte or a non-detect at the MDL of an analyte and the approved test method does not specify the concentration of the lowest calibration standard:

- 1) the concentration of the lowest calibration standard shall be at one to 15 times the MDL; or
- 2) the laboratory shall, at the initiation of sample analyses, analyze a calibration verification check standard at one to 15 times the MDL. The laboratory shall determine the acceptability of the analysis of the calibration verification check standard by:

- A) utilizing the CCV check standards' acceptance criteria specified in the approved test method; or
- B) if the approved test method does not specify a CCV acceptance criteria, the results of the calibration verification check standard analysis shall be within 15% of the true value or within the 95% confidence interval determined from a minimum of 20 analyses of the calibration verification check standards.

e) The laboratory shall subject all initial calibration curves to a calibration linearity test.

1) The calibration linearity shall be determined by:

- A) a linear regression analyses of the calibration curve;
- B) determining the %RSD of the response factors (internal standard calibration); or
- C) determining the %RSD of the calibration factors (external standard calibration).

2) The initial calibration curve is considered linear when:

- A) the correlation coefficient from the linear regression analyses is 0.995 or greater;
- B) the %RSD of the response factors is 15% or less;
- C) the %RSD of the calibration factors is 30% or less; or
- D) the correlation coefficient is less than 0.995 if the laboratory can demonstrate that the lower correlation coefficient produces accurate results for that analyte. When making the subsection (e)(2)(D) demonstration, the laboratory shall:

- i) calculate the correlation coefficient for 20 calibration curves;
- ii) calculate the mean and standard deviation of the subsection (e)(2)(D)(i) correlation coefficients;
- iii) calculate the new minimal, acceptable correlation coefficient as the mean minus two standard deviations determined in subsection (e)(2)(D)(ii); and
- iv) then analyze a standard prepared at a concentration which is 40% to 60% of the maximum calibration range

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and from a source material with a different lot number than that used in the calibration curve.

- E) After completing the subsection (e)(2)(D) demonstration, the laboratory may consider a calibration curve linear when:
  - i) the correlation coefficient meets or exceeds the new criteria determined in subsection (e)(2)(D)(iii); and
  - ii) when the result of the subsection (e)(2)(D)(iv) analysis is within 5% of that standard's true value.
- 3) If the initial calibration curve is linear as determined pursuant to:
  - A) subsection (e)(2)(A) or (D), the laboratory shall utilize the linear regression to determine the analytical results;
  - B) subsection (e)(2)(B), the laboratory shall utilize the average response factor to determine the analytical results; or
  - C) subsection (e)(2)(C), the laboratory shall utilize the average calibration factor to determine the analytical results.
- 4) If the initial calibration curve is not linear as determined pursuant to subsection (e)(2), the laboratory shall utilize the entire initial calibration curve to determine analytical results.
- f) To verify all initial calibration curves, the laboratory shall perform analyses of an initial calibration verification (ICV) check standard for all instrumentation and equipment.
  - 1) The laboratory shall utilize only ICV check standards prepared from a second source, where available.
  - 2) The laboratory shall utilize only ICV check standards prepared at the concentrations specified in the approved test method.
  - 3) If the approved test method does not specify the concentration for the ICV check standard, the concentration shall be at 10% to 50% of the maximum of the calibration range.
  - 4) The laboratory shall utilize the ICV check standards' acceptance criteria specified in the approved test method.
  - 5) If the approved test method does not specify the ICV acceptance criteria, the results of the analyses of the ICV check standard shall be within 15% of the true value or within the 95% confidence interval determined from a minimum of 20 analyses of the ICV check standards.
- g) If the analyses of the ICV check standard fails to meet the acceptance criteria specified in subsection (f)(4) or (5), the laboratory shall:
  - 1) either:
    - A) suspend sample analyses and take corrective action to be followed immediately by a reanalysis of the ICV check standard; or
    - B) immediately reanalyze the ICV check standard; and
  - 2) evaluate the subsection (g)(1)(A) or (B) ICV check standard reanalysis results as follows:
    - A) The laboratory may continue sample analyses for the analytes

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for which the results of the reanalysis of the ICV check standard meet the acceptance criteria specified in subsection (f)(4) or (5).

- B) The laboratory shall terminate sample analyses or reject sample analyses data for the analytes for which the results of the reanalysis of the ICV check standard fail to meet the acceptance criteria specified in subsection (f)(4) or (5).
- C) The laboratory may proceed with sample analyses for the analytes for which the acceptance criteria were not met only after the establishment and verification of a new initial calibration curve pursuant to this Section.
- h) To verify the continued acceptability of the initial calibration, the laboratory shall prepare and perform the analysis of a CCV check standard for all instrumentation and equipment according to the following procedure:
  - 1) The laboratory shall utilize a CCV check standard prepared from the initial calibration curve standards or from a source different than that used to prepare the initial calibration curve standards.
  - 2) The laboratory shall prepare a CCV check standard at a concentration within the range of the initial calibration standards.
  - 3) Whenever the laboratory does not prepare an initial calibration curve on the day of analysis, the laboratory shall verify the integrity of the initial calibration curve at the beginning of each day of use (or 24 hour period).
    - A) The laboratory shall initially analyze a CCV check standard:
      - i) at the approved test method specified concentration, or
      - ii) if the approved test method does not specify the concentration for the CCV check standard, the concentration shall be at 25% to 50% of the maximum of the calibration range.
    - B) The laboratory shall analyze a calibration blank.
    - C) The analysis of the CCV check standard must meet the acceptance criteria specified in subsection (h)(5) or (6).
  - 4) The laboratory shall analyze a CCV check standard once per 20 samples or every 12 hours, whichever is more frequent.
  - 5) The laboratory shall utilize the CCV check standards' acceptance criteria specified in the approved test method.
  - 6) If the approved test method does not specify the CCV acceptance criteria, the CCV check result shall be within 15% of the true value or within the 95% confidence interval determined from a minimum of 20 analyses of the CCV check standard at a single concentration.
- i) If the analyses of the CCV check standard fails to meet the acceptance criteria specified in subsection (h)(5) or (6), the laboratory shall:
  - 1) Either:

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- A) Suspend sample analyses and take corrective action followed by an immediate reanalysis of the CCV check standard; or
- B) Immediately reanalyze the CCV check standard; and
- 2) Evaluate the subsection (i)(1)(A) or (B) CCV check standard reanalysis results as follows:
- A) The laboratory may continue sample analyses for the analytes for which the results of the second analysis of the CCV check standard meet the acceptance criteria specified in subsection (h)(5) or (6).
- B) The laboratory shall terminate sample analyses or reject sample analyses data pursuant to subsection (j) below for the analytes for which the results of the second analysis of the CCV check standard fail to meet the acceptance criteria specified in subsection (h)(5) or (6).
- C) The laboratory may proceed with sample analyses for the analytes for which the acceptance criteria were not met only after the establishment and verification of a new initial calibration curve pursuant to this Section.
- j) Whenever the generation of a new initial calibration curve and verification of the new initial calibration curve are required pursuant to subsection (i), the laboratory shall reanalyze all samples analyzed since the last CCV check standard which met the CCV acceptance criteria, except for those instances where the CCV acceptance criteria was exceeded high (high bias) and there are non-detect results for the corresponding analyte in the samples associated with the CCV check standard. In those instances, the non-detect results may be reported.
- k) The laboratory shall document all activities related to calibration and standardization as specified in Section 186.190 of this Part.

**Section 186.160 Quality Assurance/Quality Control**

- a) The laboratory shall follow the quality control procedures specified below:
- 1) The laboratory shall follow all quality control procedures in the approved test method. The laboratory shall utilize the quality control procedures set forth in this Section if the approved test method does not specify any quality control procedures or the quality control procedures contained in the approved test method are less stringent.
- 2) The laboratory shall assess and evaluate the results of all quality control procedures, including but not limited to those procedures specified in subsections (a)(3), (4), (5), (6) and (7) on an on-going basis.
- A) The laboratory shall establish written procedures to ensure that all results from all quality control procedures are reviewed and the decision made to accept, reject, or qualify sample data before the data is reported.

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- B) The laboratory shall establish written criteria for accepting, rejecting, or qualifying sample data based on each quality control procedure.
- i) The laboratory shall, for each quality control procedure, use the acceptance criteria contained in the approved test method for evaluating the results of each of the quality control procedures and for accepting, rejecting, and qualifying sample data.
- ii) The laboratory shall establish written criteria if the approved test method does not specify the criteria for evaluating the results of each of the quality control procedures and for accepting, rejecting, and qualifying data.
- C) If a quality control procedure results in the laboratory rejecting or qualifying sample data, the laboratory shall implement corrective actions.
- D) The laboratory shall complete corrective actions and maintain written records as required in Section 186.190 of this Part.
- 3) The laboratory shall prepare and analyze a method blank with each batch of environmental samples and shall carry the method blank through the entire analytical process.
- A) A batch of drinking water sample data meets the requirements of this Section only when the method blank does not contain an analyte of interest at a concentration greater than the MDL.
- B) A batch of environmental sample data, except for drinking water sample data, meets the requirements of this Section when the method blank does not contain an analyte of interest at a concentration greater than the highest of the following:
- i) the MDL,
- ii) 10% of the regulatory limit for that analyte, or
- iii) 10% of the measured concentration for that analyte in any environmental sample in the batch.
- C) The provisions of subsection (a)(3)(B) do not apply in those instances where the method blank criteria have not been met and there are non-detect results for the corresponding analyte in the environmental samples associated with the method blank. In such instances, the non-detect results may be reported without a qualification.
- 4) The laboratory shall perform matrix spikes at a rate of one per 20 or fewer environmental samples per matrix type, per sample extraction or preparation procedure.
- A) The laboratory shall utilize the spiking analytes specified in the approved test method, except when the approved test method indicates that all method analytes are to be matrix spiked. In such cases, the laboratory shall spike the



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analytes of interest.

- B) If the approved test method does not specify the spiking analytes, the laboratory shall:

- i) spike 10% of the analytes listed in the approved test method, or a minimum of three analytes of interest, whichever is greater (if the approved test method lists fewer than three analytes, the laboratory shall spike all analytes of interest), and
- ii) spike at least one multi-component analyte when the approved test method includes multi-component analytes (for example: chlordane, toxaphene and PCBs in USEPA Method 608).

The analytes selected for spiking shall represent all chemistries, elution patterns and masses.

- C) The laboratory shall select samples on a rotating basis to receive matrix spike analysis from among various client samples, waste streams, monitoring locations and other applicable locations.

- D) The laboratory shall, for approved test methods which list more than six analytes, select analytes for spiking on a rotating basis from among the approved test method listed analytes. The laboratory shall rotate the analytes for spiking over a two-year time period, ensuring that all analytes of interest are used in the time period.

- E) The laboratory shall document as required in Section 186.190(d)(11) of this Part the procedure used to select the sample for matrix spike analyses.

- F) The laboratory shall document as required in Section 186.190(d)(11) of this Part the procedure used to select the analytes for matrix spike analyses.

- G) Matrix spikes are not required for approved test methods in which materials for matrix spiking are not available, including but not limited to: total suspended solids, total dissolved solids, total volatile solids, flash point, reactivity, pH, color, odor, temperature, dissolved oxygen and turbidity.

- 5) The laboratory shall analyze laboratory control samples (LCS) at a minimum of one per batch, except for analytes for which spiking solutions are not available such as total suspended solids, total dissolved solids, total volatile solids, total solids, pH, color, odor, temperature, dissolved oxygen or turbidity.

- A) The laboratory shall use the results of these LCS analyses to determine batch acceptance.

- B) The laboratory may use the matrix spike samples as specified in subsection (a)(4) as an LCS when the matrix spike acceptance criteria are as stringent as the LCS acceptance criteria. However, if the laboratory prepares an LCS, the laboratory shall analyze the LCS and use the results to

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determine batch acceptance. The laboratory shall not use the analyses of matrix spike samples as specified in subsection (a)(4) to override, ignore, or replace an LCS analysis that fails to meet criteria.

- C) The analytes shall be obtained from a second source, if applicable.

- 6) The laboratory shall perform matrix spike duplicates or sample duplicates at a rate of one per 20 or fewer environmental samples per matrix type, per sample extraction or preparation procedure.

- A) The laboratory shall perform matrix spike duplicates on the same environmental sample chosen for matrix spike analyses pursuant to subsection (a)(4)(C).

- B) The laboratory shall select samples on a rotating basis to receive sample duplicate analyses from among various client samples, waste streams, monitoring locations and other applicable locations.

- C) The laboratory shall document, as required in Section 186.190(d)(11) of this Part, the procedure used to select the sample for matrix spike duplicate or sample duplicate analyses.

- 7) The laboratory shall add surrogate compounds to all samples, standards, and blanks, whenever possible, when conducting analyses by approved test methods utilizing organic chromatography.

- 8) The laboratory shall maintain tabulations, quality control charts or any combination of tabulations and quality control charts of the results from all quality control procedures, excluding blanks, which have criteria established pursuant to subsection (a)(2) above:

- A) for each approved test method;
- B) for each matrix; and
- C) for each analytical range.

The laboratory shall perform all calculations according to Standard Methods Part 1020B or AOAC "Quality Assurance for Analytical Laboratories."

- 9) Tabulations, quality control charts or any combination of tabulations and quality control charts of quality control sample results shall include the following information:

- A) title;
- B) identification of standard operating procedure (SOP) which requires collection of quality control procedure data;
- C) name of quality control procedure being tabulated;
- D) analytical method;
- E) analyte;
- F) analyte units of measure;
- G) matrix;
- H) fortification concentration;
- I) mean;

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- J) standard deviation;  
 K) upper control limit (UCL);  
 L) lower control limit (LCL);  
 M) upper warning limit (UWL);  
 N) lower warning limit (LWL);  
 O) date of analyses;  
 P) unique control sample identification code; and  
 Q) analyst's identification.
- 10) Each analyst shall perform an IDMP study prior to initiation of sample analyses. The laboratory shall be responsible for the repetition of the IDMP study whenever there is a change in analyst, instrument type, or approved test method. The following steps shall be performed:
- A quality control (QC) check sample shall be obtained from USEPA or a certified source. If not available, the QC check sample may be prepared by the laboratory using calibration standards that are prepared at a different time than those used in instrument calibration.
  - The laboratory shall prepare four aliquots of the QC check sample at the required method volume to a concentration approximately 10 times the method-stated or laboratory-calculated MDL.
  - The four aliquots shall be prepared and analyzed according to the approved test method.
  - Using the four results, calculate the average recovery in the appropriate reporting units (such as ug/L) and the standard deviation (in the same units) for each analyte.
  - For each analyte, compare standard deviation and average recovery to the corresponding acceptance criteria for precision and accuracy in the approved test method (if applicable) or laboratory-generated acceptance criteria (if a non-standard method). If standard deviation and average recovery for all analytes meet the acceptance criteria, the analysis of actual samples may begin. If any one of the analytes exceed the acceptance range, the performance is unacceptable for that analyte.
  - When the results of the IDMP indicate that the average recovery or the standard deviation of one or more of the tested analytes does not meet the acceptance criteria pursuant to subsection (a)(10)(E), the analyst shall:
    - locate and correct the source of the problem and repeat that portion of the IDMP specified in subsections (a)(10)(C), (D) and (E) for applicable analytes; or
    - repeat that portion of the IDMP specified in subsections (a)(10)(C), (D) and (E) for applicable analytes. If the results of the IDMP conducted pursuant to this subsection (a)(10)(F)(ii) fail to

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- meet the acceptance criteria, the Agency will deem a general problem with the measurements system to exist. The analyst must then follow the requirements of subsection (a)(10)(F)(i).
- G) The laboratory shall provide the information as specified in the application process, Section 186.125(d)(15)(C) of this Part.
- 11) The laboratory shall determine MDLs using the procedures specified in 40 CFR 136 Appendix B, unless the approved test method specifies the procedure for MDL determination or the determination of an MDL is not applicable to the approved test method, such as, total suspended solids, total dissolved solids, total volatile solids, total solids, pH, color, odor, temperature, dissolved oxygen or turbidity.
- A) The laboratory shall analyze a minimum of seven replicates to determine the MDL.
- If the laboratory analyzes seven replicates, the laboratory shall use all analytical results when calculating the MDL.
  - If the laboratory analyzes more than seven replicates, which the laboratory determines are outliers by utilizing a statistical outlier test. Statistical outlier tests include, but are not limited to, The Rule of Huge Error, Dixon Test for Outlying Observations, or Grubbs Test for Outlying Observations as set forth in "Quality Assurance for Chemical Measurements."
- B) The calculation of MDLs pursuant to 40 CFR 136 Appendix B procedures may not be appropriate for multi-component analyses such as aroclors, toxaphene, and technical chlordane because they require a pattern of peak profile recognition for identification. The laboratory shall define the MDL for multi-component analyses as the lowest concentration for which pattern recognition is possible.
- C) The laboratory shall determine MDLs for each approved test method:
  - annually; and
  - when there is a change in instrument type.
- D) The laboratory may, in lieu of the annual determination of the MDL pursuant to subsection (a)(11)(C), annually verify the MDL by the preparation and analysis of a minimum of one matrix spike sample, spiked at the current MDL.
- An MDL is considered verified and acceptable for continued use if the results of the analysis of the clean matrix spike sample is within the 95% confidence interval as set forth in 40 CFR 136 Appendix B.
  - If an MDL cannot be verified pursuant to subsection

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- (a)(11)(D)(i), a new MDL shall be determined.
- E) The laboratory shall provide the Agency with all of the MDL information as specified in the application process, Section 186.125(d)(15) and (17) of this Part.
- F) The laboratory shall establish criteria for accepting replicate percent recovery.
- b) An MDL calculated pursuant to the requirements of this Section is valid when:
- 1) The calculated MDL is greater than 1/10 the MDL spiking concentration;
  - 2) The MDL spiking concentration is greater than the calculated MDL; and
  - 3) The laboratory has met its criteria for acceptable replicate percent recovery.
- For drinking water laboratory accreditation, the laboratory has achieved MDLs equal to or less than those specified in Appendix A of this Part for all analytes listed for the approved test method.
- The laboratory shall repeat the MDL study if the criteria specified in subsection (b) are not met.
- d) The laboratory shall arrange for and have conducted annual internal audits of the technical activities to verify that its operations or procedures continue to comply with this Part.
- 1) Such internal audits shall be performed by the quality assurance officer or designee who is trained and qualified as an auditor and who is, wherever possible, independent of the activity or procedure audited.
  - 2) Where the results of the internal audit indicate that operations or procedures are not in compliance with this Part, corrective action shall be taken pursuant to Section 186.165 of this Part.
  - 3) Where results of the internal audit indicate that the laboratory's test results are invalid, the laboratory shall take immediate corrective action and shall immediately notify, in writing, any clients whose data are affected.

**Section 186.165 Quality Assurance Plan**

- a) The laboratory shall prepare and implement a quality assurance plan (QAP). The QAP shall be available for use by the laboratory personnel.
- b) The laboratory management shall ensure that quality assurance policies and objectives are documented in the QAP and communicated to, understood by, and implemented by all applicable laboratory personnel. The QAP must be a laboratory specific document that may incorporate by reference available SOPs or other material, for example, approved test methods and guidance documents. Documents incorporated by reference shall be made available to the Agency.
- d) The QAP shall list on the title page: a document title; the laboratory's full name and address; the name and address (if different

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- from above); telephone number of individuals responsible for the laboratory; the name of the quality assurance officer; the identification of all major organizational units which are to be covered by this QAP; and the effective date of the version.
- e) The QAP shall describe the QA/QC practices employed by the laboratory and shall at a minimum, include the QA/QC requirements specified in the approved test methods. The QAP shall include a description of the following items or have the items referenced by or appended to the laboratory QAP:
- 1) a quality policy statement, including objectives and commitments, by laboratory top management;
  - 2) the laboratory organization and staff responsibilities, including a chart or table showing the laboratory organization, the laboratory's place in any parent organization, job descriptions of key staff and referencing the job descriptions of other staff;
  - 3) the chart or table in subsection (e)(2) above shall show the relations between management, technical operations, support services and the quality system;
  - 4) procedures for control and maintenance of documentation: a document control system which ensures that all SOPs, manuals, or documents clearly indicate the time period during which the procedure or document was in force;
  - 5) identification of the laboratory's approved signatories: at a minimum, the title page must have the signed concurrence (with appropriate titles) of all responsible parties, including the quality assurance officer, laboratory director, and laboratory owner (if applicable);
  - 6) general quality control procedures;
  - 7) reference to verification practices, including but not limited to: interlaboratory comparisons, PE programs, use of reference materials and internal quality control programs;
  - 8) the equipment procedures for calibration, verifications and maintenance;
  - 9) the laboratory's scope of test methods and SOPs;
  - 10) the laboratory's physical facilities, including services and resources;
  - 11) the laboratory's procedures for reviewing all new work to ensure that the laboratory has the appropriate facilities and resources before commencing such work;
  - 12) sample acceptance policy and sample receipt policy;
  - 13) sample tracking and storage procedures;
  - 14) record keeping, data review and reporting procedures;
  - 15) corrective action policy and procedures to be followed for feedback and corrective action whenever testing discrepancies are detected, or departures from documented policies and procedures occur, including but not limited to the following requirements:
    - A) identification of such problems, and the anticipated or recommended corrective actions;



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- B) identification of individuals responsible for initiating corrective actions;
- C) identification of individuals responsible for investigating the problem;
- D) definition of how the analyst should treat the data set if the associated QC measurements are unacceptable;
- E) documentation in writing of the problem, the corrective actions, and the final outcome; and
- F) specification of the procedures for review of the corrective actions by a supervisor and the quality assurance officer;
- 16) the laboratory management arrangements for permitting departures from documented policies and procedures;
- 17) procedures for dealing with complaints;
- 18) procedures for protecting confidentiality and proprietary rights;
- 19) procedures for internal audit;
- 20) procedures for management review of the QAP;
- 21) procedures for establishing that personnel are experienced in the duties that they are expected to carry out, or receive any needed training;
- 22) definition of terms; and
- 23) a bibliography.
- f) The laboratory management shall review the QAP to ensure the QAP's continuing suitability, effectiveness and compliance with this Part. The laboratory shall:
- 1) incorporate all changes, including, but not limited to: changes in approved test methods, changes in laboratory equipment, or changes in laboratory personnel; and
  - 2) document, pursuant to Section 186.190 of this Part, the management review of the QAP.
- g) The laboratory shall maintain for each approved test method written, laboratory specific SOPs that accurately reflect all phases of current laboratory practices such as assessing data integrity, corrective actions and handling customer complaints. The SOPs shall include the following topics, where applicable:
- 1) Scope and application. This topic includes a list of analytes, the matrices to which the approved test method applies, a generic description of method sensitivity, and a description of method limitations. Much of this material may be presented in a tabular format.
  - 2) Summary of the approved test method. This topic summarizes the approved test method in a few paragraphs. The purpose of the summary is to provide a succinct overview of the technique to aid the reviewer or data user in evaluating the approved test method and the data. List sample volume, extraction, digestion, concentration, and other preparation steps employed, the analytical instrumentation and detector systems, and the techniques used for quantitative determinations.
  - 3) Definitions. This topic includes the definitions of all

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- method-specific terms. For extensive lists of definitions, this section may simply refer to a glossary attached at the end of the approved test method document.
- 4) Interferences. This topic needs to discuss any known interferences that are specific to the approved test method.
  - 5) Safety. This topic needs to discuss only those safety issues specific to the approved test method and beyond the scope of routine laboratory practices. Target analytes or reagents that pose specific toxicity or safety issues need to be addressed in this topic.
  - 6) Equipment and supplies. This topic must state the equipment and supplies that were used in performing the approved test method.
  - 7) Reagents and standards. This topic must provide details on the concentration and preparation of reagents and standards to allow the work to be duplicated.
  - 8) Sample collection, preservation, and storage. This topic must provide information on sample collection, preservation, shipment, and storage conditions.
  - 9) Quality control. This topic must describe specific QC steps, including such procedures as method blanks, laboratory control samples, QC check samples, and instrument checks. This topic must define all terms not previously defined pursuant to subsection (g)(3). This topic must include the frequencies for each QC operation.
  - 10) Calibration and standardization. This topic must discuss initial calibration procedures, indicate frequency of such calibration, refer to performance specifications, and indicate corrective actions that must be taken when performance specifications are not met. This topic also may include discussion of procedures for calibration verification or continuing calibrations, if those procedures are not included in subsection (g)(11).
  - 11) Procedure. This topic must provide a general description of the sample processing and instrument analyses steps.
  - 12) Data analysis and calculations. This topic must describe qualitative and quantitative aspects of the approved test method, list identification criteria that are used, and provide the equations that are used to derive final sample results.
  - 13) Method performance. This topic must provide a detailed description of the approved test method performance, including data on precision, bias, detection limits and statistical procedures used to develop performance specifications.
  - 14) Pollution prevention. This topic must describe aspects of the analytical method that minimize or prevent pollution.
  - 15) Waste management. This topic must describe waste management practices specific to the approved test method.
  - 16) References. This topic must cite source documents and publications, including the approved test method.
  - 17) Tables, diagrams, flow charts, and validation data. This topic

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must provide additional information and may be presented at the end of the approved test method. Lengthy tables may be included here, and referenced elsewhere in the text by number.

- h) In cases where the laboratory makes minor modifications to the approved test method (for example, change in type of column or change in operating conditions), the modifications shall be documented in the SOPs. Where the approved test method is ambiguous or provides insufficient detail (for example, reagent purity or reagent concentration), clarifications shall be documented in the SOPs.

i) Laboratory personnel shall have access to copies of the SOPs.

- j) The laboratory shall have documented procedures for making and controlling revisions to SOPs. The following information shall be included on each page of the SOPs:

- 1) SOP number;
- 2) revision number;
- 3) date; and
- 4) current page number of total pages of a section.

## Section 186.170 Performance Evaluation Sample Testing

- a) The laboratory shall analyze PE samples for each field of testing and approved test method for which the laboratory is seeking initial accreditation, maintaining accreditation or renewing accreditation in accordance with this Part.

- b) The laboratory shall analyze PE samples which meet the following requirements.

- 1) For drinking water laboratory accreditation, the laboratory shall analyze PE samples for each field of testing, approved test method and analyte, as applicable to its scope of accreditation.

- 2) For wastewater and hazardous waste laboratory accreditation, the laboratory shall analyze PE samples for each approved test method and field of testing, as applicable to its scope of accreditation, that contain:

- A) for each inorganic field of testing, each analyte; and
- B) for each organic field of testing, the number of analytes specified in the following table:

Number of analytes of interest in method	Number of analytes required in PE sample
1	1
2	2
3	3
4-7	4
8-10	5

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11-15	7
16-20	10
21-25	12
26-30	15
31-35	17
36-40	20
41-45	22
46-50	25
51-55	27
>56	30

- c) The laboratory shall analyze additional PE samples upon demand by the Agency. The Agency may require analyses of additional PE samples for the following reasons:

- 1) a major change in ownership or supervision;
- 2) complaints by data users or employees;
- 3) a request by the laboratory for reinstatement of a field of testing or approved test method; or
- 4) suspicion of fraudulent actions.

- d) The laboratory shall participate in the following USEPA PE programs or equivalent Agency approved PE programs, as determined pursuant to Section 186.175 of this Part:

- 1) each USEPA Water Supply (WS) PE Study or equivalent, for drinking water analytes included in Section 186.180 of this Part;
- 2) each USEPA Water Pollution (WP) PE Study or equivalent, for wastewater analytes included in Section 186.180 of this Part; or
- 3) an approved solid waste or hazardous waste PE program, for solid and hazardous waste analytes included in Section 186.180 of this Part.

- e) The Agency will accredit the laboratory for an approved test method and analyte for which no PE samples are applicable based on the laboratory meeting the other requirements of this Part. Section 186.180 of this Part lists the approved test methods or analytes for which a PE sample is not applicable.

- f) The Agency will accredit the laboratory for an approved test method and analyte for which no PE samples are available based on the laboratory meeting the other requirements of this Part.

- g) The laboratory shall analyze PE samples, pursuant to this Section, and forward PE sample results to the Agency at least twice a year at a minimum of six month intervals.

- 1) The laboratory shall file a preliminary PE report with the PE program coordinator or administrator within the program's reporting deadline.
- 2) Within the PE program's reporting deadline, the laboratory shall submit to the Agency a copy of the preliminary PE report specified in subsection (g)(1).
- 3) The laboratory shall sign and complete the attestation statement required in subsection (i)(2).

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- 4) The laboratory shall be responsible for ensuring that its final PE sample results, as evaluated by the PE program coordinator or administrator, are submitted to the Agency within 15 days after the laboratory's receipt of the results.
- 5) Within 30 days after the Agency's receipt of the laboratory's final PE sample results, the Agency will review and assess the results using the criteria of subsections (m) and (n) below. The Agency will notify the laboratory in writing of its accreditation status.
- 6) The laboratory shall submit a plan of corrective actions within 30 days after receipt of the Agency's subsection (g)(5) correspondence for all results judged unacceptable according to this Section.
- h) The laboratory shall be responsible for the cost of participation in PE programs.
- i) The laboratory shall follow routine procedures to process, log-in, store, track, analyze and document PE samples.
  - 1) Failure to follow these procedures is grounds for disqualification of a laboratory's PE results.
  - 2) The analyst and laboratory management shall attest to the routine handling of the PE samples by signing and submitting to the Agency the following statement: "I certify that the enclosed PE sample results were produced as required by 35 Illinois Administrative Code 186."
- j) The laboratory's personnel shall not engage in interlaboratory communications regarding PE sample results until after the reporting deadline of the PE study.
  - 1) The Agency will revoke an accredited laboratory's entire accreditation for engaging in interlaboratory, including intracompany, communications concerning PE sample results prior to the reporting deadline.
  - 2) The Agency will deny accreditation to an applicant laboratory for engaging in interlaboratory communications concerning PE sample results prior to the reporting deadline.
  - 3) The laboratory may apply for accreditation six months after the effective date of the revocation or denial of accreditation.
- k) The laboratory shall not send PE samples to another laboratory for analysis.
  - 1) The Agency will revoke an accredited laboratory's entire accreditation for submitting another laboratory's PE sample results as its own.
  - 2) The Agency will deny accreditation to an applicant laboratory for submitting another laboratory's PE sample results as its own.
  - 3) The Agency will revoke an accredited laboratory's entire accreditation for knowingly receiving for analysis, or knowingly participating in the falsification of any reporting of, another laboratory's PE samples results.
  - 4) The Agency will deny accreditation to an applicant laboratory for

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- 5) The laboratory may apply for accreditation six months after the effective date of the revocation or denial of accreditation. The laboratory's personnel shall not attempt to obtain the true values of PE samples prior to the reporting deadline of the PE study.
- 1) The Agency will revoke an accredited laboratory's entire accreditation for attempting to obtain the true values of PE samples prior to the reporting deadline.
- 2) The Agency will deny accreditation to an applicant laboratory for attempting to obtain the true values of PE samples prior to the reporting deadline.
- 3) The laboratory may apply for accreditation six months after the effective date of the revocation or denial of accreditation.
- m) The Agency will utilize the following criteria in evaluating PE sample results.
  - 1) A laboratory's PE sample result, for drinking water analytes, is acceptable when the laboratory's result is within the statistically determined 95% confidence interval of the PE study or within the fixed performance limits required by the USEPA for that analyte.
  - 2) A laboratory's PE sample result, for drinking water analytes, is unacceptable when the laboratory's result is outside the statistically determined 95% confidence interval of the PE study or outside the fixed performance limits required by the USEPA for that analyte.
  - 3) A laboratory's PE sample result, for wastewater analytes and solid and hazardous waste analytes, is acceptable when the laboratory's result is within the statistically determined 99% confidence interval of the PE study or within the fixed performance limits required by the USEPA for that analyte.
  - 4) A laboratory's PE sample result, for wastewater analytes and solid and hazardous waste analytes, is unacceptable when the laboratory's result is outside the statistically determined 99% confidence interval of the PE study or outside the fixed performance limits required by the USEPA for that analyte.
  - 5) A laboratory's PE sample result is acceptable when the PE program determines that the PE study is invalid for that analyte or that the PE study data cannot be evaluated for that analyte due to technical failures.
  - 6) A laboratory's PE sample result is unacceptable if the laboratory fails to participate in a PE study or fails to submit results to the Agency within 15 days after the laboratory's receipt of the final PE results as specified in subsection (g)(4) above.
  - 7) A laboratory's PE sample result is unacceptable if the laboratory fails to submit a PE result on or before the deadline of the PE study as specified in subsections (g)(1) and (g)(2).



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- 8) A laboratory's PE sample results for the drinking water volatile organic contaminants (VOCs) listed in 40 CFR 141.61(a), excluding vinyl chloride, are acceptable if the laboratory submits results that meet the criteria of subsection (m)(1) for at least 80% of all the listed VOCs excluding vinyl chloride in drinking water on a PE study.
  - 9) A laboratory's PE sample results for the drinking water VOCs listed in 40 CFR 141.61(a), excluding vinyl chloride, are unacceptable if the laboratory fails to submit results that meet the criteria of subsection (m)(1) for at least 80% of all the listed VOCs excluding vinyl chloride in drinking water on a PE study.
  - 10) If subsection (b)(2)(B) requires a laboratory to analyze a PE sample for five or more analytes of interest, the laboratory shall achieve acceptable PE results for at least 80% of the required analytes present in the PE sample.
  - 11) If subsection (b)(2)(B) requires a laboratory to analyze a PE sample containing four or fewer analytes of interest, the laboratory shall achieve acceptable PE results for all the required analytes of interest.
  - 12) A laboratory's PE sample result is unacceptable if the laboratory fails to analyze the PE samples by the approved test method.
- n) The Agency will determine the laboratory's accreditation status for each approved test method and analyte based on the laboratory's performance on the applicable PE study as evaluated according to this Section.

1) The Agency will deny accreditation to a laboratory seeking initial accreditation for an approved test method and analyte if the laboratory submits unacceptable results, as evaluated according to this Section, on the PE study most recent to the laboratory's approved application package.

2) The Agency will suspend a laboratory's accreditation for an approved test method and analyte if the laboratory submits unacceptable results, as evaluated according to this Section, on two consecutive PE studies for that approved test method and analyte.

3) The subsection (n)(2) suspension is effective immediately upon receipt of notification of the suspension pursuant to Section 186.210 of this Part.

4) The Agency will change the laboratory's suspended status for the approved test method and analyte to accredited status if:

- A) the laboratory submits documentation that demonstrates the corrective actions described in subsection (g)(6) were completed and were effective; and
- B) the laboratory acceptably analyzes a PE sample for the suspended approved test method and analyte on the next applicable PE study. The PE samples analyzed in this subsection (n)(4)(B) shall be:

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- i) obtained from an approved PE program;
  - ii) analyzed subsequent to subsection (n)(4)(A) actions; and
  - iii) obtained from distinct PE studies.
- 5) The Agency will revoke the laboratory's accreditation for an approved test method and analyte if the laboratory submits unacceptable results, as evaluated according to this Section, for an approved test method and analyte on three consecutive PE studies. The result of the PE sample analyzed pursuant to subsection (n)(4)(B) shall be utilized to evaluate the laboratory's accreditation status.
- 6) After the submittal of unacceptable results on three consecutive PE studies, the Agency will change the laboratory's revoked status for an approved test method and analyte to accredited status if the laboratory:
- A) submits documentation that the corrective actions described in subsection (g)(6) were completed and were effective;
  - B) acceptably analyzes two consecutive PE samples for that approved test method and analyte on the next two consecutive applicable PE studies. The PE samples analyzed pursuant to this subsection (n)(6)(B) shall be:
    - i) obtained from an approved PE program;
    - ii) analyzed subsequent to submittal of documentation pursuant to subsection (n)(7)(A); and
    - iii) obtained from distinct PE studies;
  - C) meets all of the applicable requirements of this Part.
- o) The laboratory shall authorize the release of PE sample results to the Agency.

## Section 186.175 Performance Evaluation Testing Programs

a) The Agency will recognize PE programs and accept the results of PE programs for laboratory accreditation if the program is offered by:

- 1) a federal agency;
- 2) a state agency; or
- 3) an entity that demonstrates to the Agency that it has the resources, technical ability and quality assurance system to prepare PE samples, characterize PE samples, test PE samples, package PE samples, label PE samples, securely store PE samples, distribute PE samples, maintain the integrity of PE samples throughout the production and distribution process, evaluate PE sample results, report PE sample results, meet the requirements of this Section and meet the applicable requirements of Section 186.170 of this Part.

- A) The Agency may perform an on-site evaluation of the entity seeking approval of its PE program.
- B) The entity shall submit a written program plan and SOPs that document the entity's quality assurance system.

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- i) In the subsection (a)(3)(B) submission, the entity shall address each item listed in ASTM E1301-95, Annex 2.
- ii) In the subsection (a)(3)(B) submission, the entity shall address each item listed in ASTM E1301-95, sections 6, 7 and 8.
- C) The Agency will not release information submitted by the entity that is identified by the entity as a trade secret or confidential business information pursuant to Section 186.220 of this Part.
- b) An entity that seeks or obtains approval of its PE program shall:
  - 1) meet the requirements of ASTM E1301-95;
  - 2) utilize PE samples that meet the criteria described in ASTM E1301-95, 5.3, Interlaboratory Testing Program;
  - 3) prepare and distribute PE samples that contain analytes at or near the applicable regulatory limit;
  - 4) ensure and communicate the suitability, homogeneity and stability of PE samples by:
    - A) verifying the true value before distribution through direct analysis against a NIST standard reference material if available, or calibration material prepared from a separate raw material source or a source external to the provider if a NIST standard reference material is not available;
    - B) testing within seven days before the deadline of the PE study to demonstrate that the mean analytical value for each analyte in the PE sample falls within the 95% confidence interval calculated for the true value verification in subsection (b)(4)(A);
    - C) testing final packaged PE samples, prior to shipment, to demonstrate that PE samples distributed to the laboratories are homogeneous;
    - D) testing final packaged PE samples, after completing subsection (b)(4)(C) testing and prior to shipment, to demonstrate that PE samples distributed to the laboratories have analytical values that fall within the 95% confidence interval calculated for the true value verification in subsection (b)(4)(A);
    - E) submitting the results generated in subsections (b)(4)(A) and (C) to the Agency prior to PE sample distribution; and
    - F) making the results generated in subsections (b)(4)(A), (B), (C) and (D) available to the participating laboratories upon request after the close of the PE study;
- 5) maintain PE samples for retesting;
- 6) distribute PE samples:
  - A) at a minimum of two times per year;
  - B) at a minimum of one concentration for each analyte in an approved test method listed in Section 186.180(b)(1) of this Part;

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- C) at a minimum of one concentration for the approved test methods listed in Section 186.180(b)(2) and (3) of this Part that includes the minimum number of analytes as specified in the table in Section 186.170(b)(2)(B) of this Part; and
  - D) at a volume that allows for testing by at least two applicable approved test methods within the fields of testing described in Section 186.180 of this Part;
  - 7) determine true values and acceptable ranges for PE sample results by utilizing the USEPA's fixed limits when required, or utilizing the USEPA's Bi-Weight Program with at least 13 data points from the current PE study:
    - A) to statistically determine the 95% confidence interval of the PE study drinking water analytes; and
    - B) to statistically determine 99% confidence intervals of the PE study for wastewater analytes and hazardous and solid waste analytes;
  - 8) utilize a code to identify participating laboratories so that each laboratory's performance remains anonymous to all other participants;
  - 9) provide technical assistance to resolve PE program problems, including but not limited to: lost samples, broken containers, and anomalies during analysis;
  - 10) not have financial interest in an applicant or accredited laboratory;
  - 11) not share personnel, facilities or instrumentation with an applicant or accredited laboratory;
  - 12) not sell, distribute, or provide PE samples, utilized pursuant to this Part, prior to the conclusion of the PE study for which they were designed;
  - 13) not sell, distribute, or provide PE samples of identical design and concentration to those that are currently being used in a PE study for the Agency;
  - 14) not release the true value of a PE sample prior to the PE study deadline;
  - 15) report to the Agency, within three days after occurrence, any attempts to obtain the true value of a PE sample prior to the PE study deadline;
  - 16) maintain control over the confidentiality of a PE sample, including but not limited to: its production, testing, distribution, data collection, data analysis, and data reporting;
  - 17) identify the PE program coordinator;
  - 18) store records related to all phases of PE sample production and testing and to laboratory PE study data analysis for 10 years;
  - 19) maintain a mailing list of all PE study participants; and
  - 20) transfer data from preliminary PE report forms to electronic format by double-entry keypunching or other viable mechanism.
- c) An entity that seeks or obtains approval of its PE program shall identify problems within a PE study and notify the Agency within seven

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days after discovery of the problem.

- 1) After the subsection (c) notification, the entity shall submit a written report to the Agency that:
  - A) describes the problem;
  - B) describes the corrective actions taken to address the problem; and
  - C) includes verification that the corrective actions taken were effective.
- 2) If the problem is discovered prior to the release of the PE sample results, the PE program shall not release the results without the consent of the Agency.
- d) An entity that seeks or obtains approval of its PE program shall:
  - 1) notify participants at least one week in advance of expected PE sample shipping schedule;
  - 2) have a mechanism in place that allows participating laboratories to notify the PE program when PE samples are not received within three days after expected receipt;
  - 3) have a mechanism in place that allows participating laboratories to notify the PE program when samples are received in an unacceptable state;
  - 4) require participants to submit PE sample results to the PE program coordinator within one month after shipping the PE samples; and
  - 5) provide instructions on the preparation of PE samples, recording of PE samples and reporting of PE samples results.
- e) An entity that seeks or obtains approval of its PE program shall provide instructions for the completion of report forms and require participating laboratories to submit the following information on uniform report forms:
  - 1) the participating laboratory's name, address and identification code;
  - 2) the analytical values for each analyte;
  - 3) the approved test method utilized to analyze the PE samples for each analyte;
  - 4) the statement specified in Section 186.170(i)(2) of this Part;
  - 5) a signature block for laboratory management who must attest to fulfillment of Section 186.170(i) requirements; and
  - 6) the unique PE study identification code.
- f) An entity that seeks or obtains approval of its PE program shall provide for each PE study within one month of the PE study deadline:
  - 1) laboratory-specific results with results determined according to subsection (b)(7) to each participating laboratory and the Agency including:
    - A) laboratory identification, utilizing only the laboratory's identification code; and
    - B) analyte, units of measure, reported value, true value, and acceptance limits for each analyte.
  - 2) statewide and nationwide reports to the Agency summarizing PE

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- study data including analyte, units of measure, true value, total number of results reported, number of useable results, number of acceptable results, number of unacceptable results and acceptance limits; and
- 3) a study specific report summarizing the statistical evaluation techniques used to analyze study data, a description of any anomalies associated with the study, and a description of any sample data which could not be evaluated.
  - g) An entity that seeks or obtains approval of its PE program shall provide laboratory results to the Agency in the following electronic form:
    - 1) as ASCII delimited files;
    - 2) on a 3 1/2" diskette; and
    - 3) compatible with the Agency's accreditation program database.
  - h) An entity that seeks or obtains approval of its PE program may submit to the Agency a waiver request for a limited number of requirements of this Section when meeting the requirement is not technically feasible or it would be extraordinarily costly.
    - 1) In the waiver request, the entity shall clearly describe the reason for requesting the waiver.
    - 2) The Agency will respond in writing to the entity within one month after receiving the waiver request.

## Section 186.180 Fields of Testing

- a) The Agency shall accredit a laboratory as specified in Section 186.130(a)(1) of this Part which includes the following fields of testing:
    - 1) For accreditation to conduct public water supply analyses:
      - A) inorganic analytes; and
      - B) organic analytes.
    - 2) For accreditation to conduct water pollution analyses:
      - A) inorganic analytes; and
      - B) organic analytes.
    - 3) For accreditation to conduct analyses of solid or liquid samples for hazardous or other waste analytes:
      - A) inorganic analytes; and
      - B) organic analytes.
  - b) The Agency shall accredit a laboratory for the approved test methods contained in the documents and publications cited below:
    - 1) For accreditation to conduct public water supply analyses, inorganic and organic analytes, a listing of the approved test methods are found in:
      - A) 40 CFR 141.23(k);
      - B) 40 CFR 141.24(e);
      - C) 40 CFR 143.4.
- The Agency will accredit a laboratory for an alternative test procedure after the laboratory documents that it has received



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approval for the alternative test procedure from USEPA and has complied with the requirements of 40 CFR 141.27.

- 2) For accreditation to conduct water pollution analyses, inorganic and organic analytes, a listing of the approved test methods are found in:

A) 40 CFR 136.3 Table IB (July 1, 1996), including only the approved test methods from "Methods of Chemical Analysis of Water and Wastes", EPA-600/4-79-020, and "Standard Methods for Examination of Water and Wastewater";

B) 40 CFR 136.3 Table IC, including only the approved test methods from "Standard Methods for Examination of Water and Wastewater";

C) 40 CFR 136, Appendix A;

D) 40 CFR 136.3 Table ID, including only the approved test methods from "Standard Methods for Examination of Water and Wastewater"; and

E) 40 CFR 136, Appendix C.

The Agency will accredit a laboratory for an alternative test procedure after the laboratory documents that it has received approval for the alternative test procedure from USEPA and has complied with the requirements of 40 CFR 136.4 and 136.5.

- 3) For accreditation to conduct analyses of solid or liquid samples for hazardous or other waste analytes, inorganic and organic analytes, the approved test methods are found in:

A) Test Methods for Evaluating Solid Waste, SW846, Volume IA, with the following exceptions: Method 3005A, Method 3010A, Method 3015, Method 3020A, Method 3040, Method 3050A, and Method 3051.

B) Test Methods for Evaluating Solid Waste, SW846, Volume IB, with the following exceptions: Method 3500A, Method 3510B, Method 3520B, Method 3540B, Method 3541, Method 3550A, Method 3580A, Method 3600B, Method 3610A, Method 3611A, Method 3620A, Method 3630B, Method 3640A, Method 3650A, Method 3660A, Method 3665, Method 5030A, Method 5040A, Method 5041 and Method 5050.

C) Test Methods for Evaluating Solid Waste, SW846 Volume IC, with the following exceptions: Method 9075, Method 9076, Method 9077, Method 9080, Method 9081, Method 9090A, Method 9095, Method 9096, Method 9100, Method 9131, Method 9132, Method 9310, Method 9315 and Method 9320.

- c) The laboratory is not required to analyze PE samples pursuant to Section 186.170 of this Part for the following approved test methods:

1) Method 2510B, Method 2550B, Method 4500-O-C, Method 4500-O-G and Method 5540C from "Standard Methods for Examination of Water and Wastewater".

2) Method 1310A, Method 1311, Method 1312, Method 1320, Method 1330A, Method 5100, Method 5110, Method 9030A, Method 9031, Method 9050, Method 8280, Method 8290 from Test Methods for

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Evaluating Solid Waste, SW846.

- 3) USEPA Method 613.

- d) The laboratory may submit a written request to the Agency requesting the inclusion of an approved test method in subsection (c) above. The Agency will make a determination if analysis of a PE sample is not applicable for accreditation.

**Section 186.185 Sample Acceptance and Receipt**

- a) Regardless of the laboratory's level of control over sampling activities, all the requirements of this Section are essential to ensure sample integrity and valid data and shall be followed by the laboratory.

- b) The laboratory shall have a written sample acceptance policy that outlines the circumstances under which it will accept samples. Data from any samples which do not meet the following criteria must be flagged in an unambiguous manner clearly defining the nature and substance of the variation. The sample acceptance policy shall be made available to sample collectors and shall require at a minimum:

- 1) complete documentation, which shall include sample identification, the location, date and time of collection, collector's name, preservative added, sample type and any special remarks concerning the sample;
- 2) sample labeling:

- A) a unique identification of the sample and each sample container; and
- B) a labeling system for the samples with durable labels and the use of indelible markings;

- 3) documentation of use of preservation and sample containers as required by the approved test methods;
- 4) adherence to the maximum allowable holding time prior to analyses as specified by the approved test methods; and

- 5) adequate sample volume to perform the necessary analyses.

- c) The laboratory shall examine samples upon receipt for thermal preservation, if applicable. The laboratory shall document the results of such examinations. All samples which require thermal preservation shall be considered acceptable if:

- 1) the arrival temperature is either within  $\pm 2^{\circ}\text{C}$  of the required temperature or the method specified range (for samples with a specified temperature of  $4^{\circ}\text{C}$ , samples with a temperature of  $0.1$  to  $6^{\circ}\text{C}$  shall be acceptable); or
- 2) the samples have been hand delivered to the laboratory within six hours after collection and there is evidence, such as arrival on ice, that the chilling process has begun.

- d) The laboratory shall examine samples for chemical preservation upon receipt or prior to sample preparation or analysis. The laboratory shall document the results of such examinations. The laboratory SOP shall define the procedures for checking chemical preservation using

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readily available techniques, such as pH, free chlorine or temperature, prior to sample preparation or analysis.

- e) When the samples do not meet the preservation and maximum holding time requirements as stated in the approved test method, the laboratory shall notify the client requesting the analyses for further instructions before proceeding. If the sample does not meet the sample acceptance criteria listed in subsections (a) through (c) above, the laboratory shall either:

- 1) retain correspondence and records of conversations concerning the final disposition of rejected samples; or
- 2) fully document any decision to proceed with the analysis of compromised samples including:

- A) documenting the condition of the samples on the chain of custody or transmittal form and laboratory receipt documents; and
- B) appropriately qualifying the analyses data on the final report.

- f) The laboratory shall utilize a permanent sequential log to document receipt of all sample containers. The following information must be chronologically recorded in the log:

- 1) date and time of laboratory receipt of sample;
- 2) sample collection date;
- 3) unique laboratory identification code as specified in subsection (b)(2) above;
- 4) field identification code as supplied by the sample submitter;
- 5) requested analyses, including approved test method number;
- 6) signature or initials of data logger;
- 7) comments resulting from inspection for acceptance or rejection; and
- 8) sampling kit code (if applicable).

- g) The laboratory shall maintain a complete sample tracking record, as specified in Section 186.190(d) of this Part.

- h) The laboratory shall provide sample storage facilities that prevent cross-contamination of samples and meet the conditions specified by preservation protocols. The Agency shall verify compliance through the examination of storage areas or through the review of analytical data on laboratory blanks that are stored with samples.

- 1) The laboratory shall verify that cross-contamination between samples has not occurred.
- 2) Drinking water samples to be analyzed for trihalomethanes or VOCs must be further segregated from all other samples and all organic solvent vapors.
- 3) Samples shall be stored away from all standards, reagents, food and other potentially contaminating sources.
- 4) Sample fractions, extracts, leachates and other sample preparation products shall be stored according to this Section or according to specifications in the approved test method.
- i) The laboratory shall store all samples in a secure area and limit

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access to authorized laboratory personnel only.

- j) The laboratory shall control and document access to all litigation samples and subsamples.

- 1) A clean dry isolated room and refrigerated space that can be securely locked from the outside must be designated as a custody room.

- 2) Where possible, distribution of samples to the analyst performing the analysis must be made by the custodians.

- 3) Once the sample analyses are completed, the unused portion of the sample, together with all identifying labels, must be returned to the custodian. The returned labeled sample must be retained in the custody room until permission to destroy the sample is received by the custodian or other authority.

- k) The laboratory shall follow the procedures specified in Section 186.190(u) of this Part for samples subject to litigation.

## Section 186.190 Record Keeping, Sample Tracking and Reporting

- a) The records for each test shall contain information to permit repetition.

- 1) The record keeping system must allow historical reconstruction of all laboratory activities that produce the resultant sample analytical data.

- 2) The history of the sample must be traceable through the documentation.

- 3) The history of the sample shall include interlaboratory transfers of samples and sample extracts.

- b) There are two levels of record keeping which are sample tracking as described in subsection (d) below and evidentiary chain-of-custody as described in subsection (u) below.

- c) The laboratory shall maintain a record keeping system that facilitates the retrieval of all working files and archived records for inspection and verification purposes by the Agency.

- d) The laboratory shall document and maintain records related to all procedures and activities to which a sample is subjected, including:

- 1) identity of personnel involved in sampling, preparation and testing;
- 2) sample preservation, including but not limited to: sample container and compliance with holding times;
- 3) sample identification code, receipt, log-in, acceptance or rejection;
- 4) sample storage and tracking, including: shipping receipts, transmittal forms, and internal routing and assignment records;
- 5) sample preparation including: cleanup and separation procedures, extract or digestate identification codes, volumes, weights, instrument printouts, meter readings, calculations, reagents;
- 6) sample analysis;
- 7) equipment receipt, use, specification, operating conditions and

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preventative maintenance;

- 8) calculations and statistical formulae used by the laboratory:
    - A) written procedures for all calculations are available for review;
    - B) representative calculations are available and indicate that routine calculations are consistent with the written procedures;
    - C) all raw data and supporting information needed to recreate calculations are available for review;
    - D) the appropriate number of significant figures are carried out through all recorded data and calculations; and
    - E) the least precise step is identified in the calculations and the number of significant figures is an accurate reflection of the actual tolerances of the instrument or equipment used in this step;
  - 9) procedures to verify that the reported data is free from transcription and calculation errors;
  - 10) data handling, including but not limited to: reduction, review, confirmation, interpretation, assessment or validation and reporting;
  - 11) QC measurements, including procedures to select samples on which to perform QC measurements, and assessment of method performance;
  - 12) requirements specified in Section 186.185(j) of this Part;
  - 13) time and day and calendar date of each transfer or handling procedure;
  - 14) signatures of all personnel who physically handle the samples;
  - 15) all information necessary to produce unequivocal, accurate records that document the laboratory activities associated with the sample receipt, preparation, analysis and reporting;
  - 16) procedures that maintain an unequivocal link with the unique field identification and the laboratory identification code assigned each sample; and
  - 17) the documents from common carriers.
- e) The laboratory shall retain the following records:
- 1) all original raw data, whether hard copy or electronic, for calibrations, samples and quality control measures, including analysts' work sheets and data output records such as chromatograms, strip charts, and other instrument response readout records;
  - 2) copies of final reports;
  - 3) archived SOPs;
  - 4) all correspondence between the laboratory and the laboratory's clients;
  - 5) all corrective action reports, audits and audit responses;
  - 6) PE sample results and raw data; and
  - 7) data review and cross-checking.
- f) The laboratory shall document and maintain records concerning the receipt, use, and traceability of analytical reagents and standards,

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including at a minimum:

- 1) verification that standards are traceable to national standards. If traceability to a national standard is not possible, the laboratory shall demonstrate, by appropriate means (for example analyses of PE samples) that the instrumentation and equipment is properly calibrated;
  - 2) certificate of the origin, purity and traceability of all standards and reagents. These records shall include the date of receipt, storage conditions, the date of opening and an expiration date;
  - 3) procedures to ensure the traceability of working and intermediate standards to purchased stock standards or neat compounds which include the date of preparation and preparer's initials; and
  - 4) procedures to clearly identify all prepared reagents and standards, including: preparation date, concentrations, and preparer's initials.
- g) The laboratory shall document and maintain records, whether hard copy or electronic, of instrument and equipment calibrations, including at a minimum:
- 1) calibration procedures, calibration frequency, calibration acceptance criteria;
  - 2) procedures to label all calibration curves, including the date, approved test method, analyte, standard concentrations, and instrument response; and
  - 3) procedures to label the axes of the calibration curve:
    - A) For electronic data processing systems, which automatically compute the calibration curve, the system shall record the equation for the curve and correlation coefficient.
    - B) Laboratory personnel shall record the equation of the line and the correlation coefficient when the calibration curve is prepared manually.
- h) Where computers or automated equipment is used for the capture, processing, manipulating, recording, reporting, storage or retrieval of test data, the laboratory shall:
- 1) meet all the requirements of this Part;
  - 2) maintain a listing of computer software with a description of the software's intended use in the laboratory;
  - 3) establish and implement procedures for protecting the integrity of the data. Such procedures shall include, but are not limited to:
    - A) integrity of data entry or capture;
    - B) data storage;
    - C) data transmission; and
    - D) data processing;
  - 4) maintain computer and automated equipment to ensure proper functioning and provide environmental and operating conditions necessary to maintain the integrity of calibration and test data;
  - 5) establish and implement procedures for the maintenance of



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security of data, including the prevention of unauthorized access to, and the unauthorized amendment of, computer records; and

- 6) maintain hard copy or write protected backup copies of records that are stored or generated by computer.

i) The laboratory shall maintain the following administrative records:

- 1) personnel qualifications, education, experience and training pursuant to the requirements set forth in Section 186.140 of this Part;
  - 2) IDMP and any required repetitions of the IDMP for each analyst pursuant to the requirements set forth in Section 186.160 of this Part; and
  - 3) a log of names, initials and signatures for all individuals who are responsible for signing or initialing any laboratory record.
- j) Laboratory personnel shall sign or initial all record entries. The reason for the signature or initials shall be clearly indicated in the records, including but not limited to: sampled by, prepared by, reviewed by.
- 1) All generated data, except those that are generated by automated data collection systems, shall be recorded directly, promptly and legibly in permanent ink.
  - 2) All corrections to record keeping errors shall be made by one line marked through the error. The individual making the correction shall sign or initial and date the correction.
  - 3) Laboratory personnel shall not obliterate entries in records by erasures, white out or markings.
  - 4) Electronically maintained records shall be kept in such a fashion as to indicate any change in the record.

k) Record Retention

- 1) The laboratory shall retain all records:
  - A) Pertaining to drinking water analyses that are associated with the laboratory accreditation for a minimum of 10 years. Analyses of lead and copper samples shall be retained for a minimum of 12 years.
  - B) Pertaining to environmental analyses that are associated with the laboratory's accreditation for a minimum of five years unless otherwise designated for a longer period of time in another regulation.
  - C) Pertaining to all suppliers from whom it obtains support services or supplies required for tests, for a minimum of five years.
- 2) The laboratory shall maintain an archive of all obsolete or replaced procedures or records, for a minimum of five years.
- 3) The laboratory shall allow the Agency access to archived information.
- 4) Access to archived information shall be documented with an access log. These records shall be protected against fire, theft loss, environmental deterioration, vermin and, in the case of electronic records, electronic or magnetic sources.

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5) The laboratory shall establish a record management system for control of:

- A) Laboratory notebooks;
- B) Instrument logbooks;
- C) Standards logbooks; and
- D) records for data reduction, validation, storage and reporting.

1) All raw data associated with sample analyses (for example, calibration curves, strip charts, tabular printouts, computer data files, analytical notebooks, and run logs) shall include the following information:

- 1) the laboratory sample identification code;
  - 2) the date of analysis;
  - 3) the instrumentation identification and instrument operating conditions (or reference to such information);
  - 4) the analysis type;
  - 5) all calculations automated or manual to which the sample data is subjected; and
  - 6) the analyst's and technician's initials or signature.
- m) The laboratory shall maintain SOPs that accurately reflect all phases of current laboratory activities, as required in Section 186.165 of this Part.
- n) The laboratory shall issue sample data or sample result reports accurately and in a manner that is understandable to the recipient. The basic information to be included in the report shall include the following:

- 1) report title, such as "Certificate of Results" or "Laboratory Results" with the name, address and phone number of the laboratory;
- 2) name and address of client and project;
- 3) unique identification of the report (such as serial number) and of each page, and total number of pages. The laboratory may meet this requirement in several ways:
  - A) The total number of pages may be listed on the first page of the report, as long as the subsequent pages are identified by the unique report identification and consecutive numbers;
  - B) Each page is identified with the unique report identification, the pages are identified as a number of the total report pages, for example, 3 of 10, or 1 of 20; or
  - C) Other methods of identifying the pages in the report may be acceptable as long as it has discrete pages which are associated with a specific report, and the report contains a specified number of pages;
- 4) description and identification of samples (including client ID code);
- 5) date of sample receipt, sample collection and sample analysis (time of sample preparation and analysis if the required holding time for either activity is less than or equal to 48 hours);

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- 6) approved test method utilized;
- 7) sample results with any failures or deviations from approved test methods or QC criteria identified, such as data qualifiers;
- 8) signature or name, if electronic, and title of the individuals accepting responsibility for the content of the report and date of issue;
- 9) clear identification of any sample results that were generated by a subcontracted laboratory;
- 10) a description of the calculations or operations performed on the data, a summary and analysis of the data, and a statement of conclusions drawn from the analysis;
- 11) identification of the reporting units, such as ug/L or mg/kg;
- 12) a statement that the report shall not be reproduced, except in full, without the written approval of the laboratory;
- 13) where applicable, a statement to the effect that the sample results relate only to the analytes of interest tested or to the sample as received by the laboratory;
- 14) where applicable, characterization and condition of the sample;
- 15) where applicable, reference to sampling procedure; and
- 16) clear, unequivocal identification of analytical results generated by an approved test method for which the laboratory is accredited in accordance with the laboratory's accreditation pursuant to this Part.
- o) The laboratory shall certify that the sample results meet all requirements of this Part or provide reasons which explain why they do not meet all requirements of this Part.
- p) After a laboratory delivers its sample data and sample result reports to the client, the laboratory shall only correct, add or delete information from the report when it supports those actions by supplementary documentation. Any supplemental report shall clearly identify its purpose and shall contain all reporting requirements specified above.
- q) Laboratories that are operated by a facility and whose sole function is to provide data to the facility management for compliance purposes must provide the information required in subsections (n)(1) through (7), (10) and (11) above to management. The facility management must assure that the remaining items in subsection (n) above are added in the sample data and sample reports to the regulatory authority.
- r) The laboratory shall pay particular care and attention to the arrangement of the report, especially with regard to presentation of the sample results and ease of assimilation by the reader. The format shall be carefully and specifically designed for each type of approved test method carried out, but the headings shall be standardized as far as possible.
- s) The laboratory shall notify clients promptly, in writing, of any event such as identification of defective measuring or instrumentation that indicates that the laboratory's test results given in any sample data and sample result reports or amendment to a sample data and sample

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result reports are invalid.

- t) The laboratory shall ensure that, where clients require transmission of test results by telephone, telefacsimile or other electronic or electromagnetic means, laboratory personnel shall follow documented procedures that ensure that the requirements of this Part are met and that confidentiality is preserved.
- u) The laboratory shall follow subsection (d) above and these minimal evidentiary chain-of-custody procedures when processing samples for the purpose of litigation.
- 1) Laboratories accredited for drinking water analyses, when requested to analyze a sample for possible legal action against a public water supplier, shall use the evidentiary chain-of-custody procedures specified in the "Manual For The Certification of Laboratories Analyzing Drinking Water."
- 2) The laboratory shall establish and maintain the following basic requirements for evidentiary chain-of-custody:
- A) The evidentiary chain-of-custody records shall account for an unbroken possession of the sample while it is in the laboratory's custody.
- B) The evidentiary chain-of-custody records shall include signatures of all individuals who were involved with physically handling the samples and the time that the sample was physically transferred from one individual to the next individual or to and from a controlled access storage area.
- C) A minimum number of persons shall be involved in sample handling.
- D) The laboratory shall limit the number of documents that are required to establish evidentiary chain-of-custody.
- E) The evidentiary chain-of-custody forms shall remain with the samples during transport or shipment.
- F) The laboratory shall control access to all evidentiary samples and subsamples and shall document this control as described in Section 186.185(j) of this Part.
- G) Transfer of samples, subsamples, digestates or extracts to another laboratory is subject to all of the requirements for evidentiary chain-of-custody.
- H) The laboratory shall ensure that sample containers which are shipped are sealed in such a manner so that tampering by unauthorized personnel is immediately evident.
- I) The laboratory shall ensure that, if required, individual sample containers shall be sealed in such a way to prevent tampering.
- J) The laboratory shall ensure that mailed packages of samples be registered with return receipt requested. If such packages are sent by common carrier, receipts shall be retained as part of the permanent evidentiary chain-of-custody documentation.
- v) The laboratory shall maintain records of sample disposal including the

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date of sample or subsample disposal and name of the responsible person.

- 1) If the sample is part of litigation, disposal of the physical sample shall occur only with the concurrence of the affected legal authority, sample data user and submitter of the sample.
- 2) The laboratory shall document and retain a record of all conditions of disposal and all correspondence between all parties concerning the final disposition of the physical sample.
- 3) The sample records shall indicate the date of disposal, the nature of disposal (such as sample depleted, sample manifested to a hazardous waste facility, sample returned to client), and the identity of the individual who performed the task.
- 4) Each laboratory shall have waste collection, storage, recycling, and disposal procedures and policies as part of their SOPs. Where disposal practices are included as part of an approved test method, the laboratory shall strictly follow the approved test method's disposal practices. While more specific disposal criteria are not an aspect of this accreditation program, the laboratory should apply appropriate Federal, state, and local disposal practices as a part of good laboratory procedures.
- x) The laboratory shall have a documented policy and procedures for the resolution of complaints received from clients or other parties about the laboratory's activities.
  - 1) The laboratory shall audit the laboratory activities as required in Section 186.160(d) of this Part resulting from a complaint, or any other circumstance that impacts the laboratory's compliance with:
    - A) the laboratory's policies or procedures;
    - B) the requirements of this Part; and
    - C) the quality of the laboratory's calibration or tests.
  - 2) The laboratory shall maintain records of the complaint and the laboratory's subsequent actions.
- x) The laboratory shall document the management review of the QAP.

## Section 186.195 Subcontracting

- a) Any accredited laboratory that subcontracts analytical work to another laboratory shall establish that the contracted laboratory has been accredited under this Part for the appropriate fields of testing, approved test methods and analytes.
- b) The laboratory shall ensure and have the ability to demonstrate that the subcontracted laboratory meets the criteria of this Part by retaining a copy of the most recent certificate issued by the Agency to the subcontracted laboratory.
- c) The laboratory shall notify the client in writing of the laboratory's intention to subcontract any portion of the analytical work to another accredited laboratory.
- d) The name and accreditation number of the laboratory actually

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performing the analysis shall be stated on all reports of analytical sample results.

- e) The laboratory shall maintain a record of all laboratories to which it subcontracts analytical work.

## Section 186.200 Reciprocity

- a) Notwithstanding any other provision of this Part, the Director may elect to enter into reciprocal agreements with the governments of other states or with federal governmental units for recognition of their environmental laboratory on-site evaluations and accreditations. Recognition under reciprocity will occur when the accreditation program is equivalent to this Part. If a reciprocity agreement is revoked, all accreditations issued pursuant to this Section shall remain valid until their stated expiration dates.
- b) The Agency shall issue certificates which contain the elements specified in Section 186.130(d)(2) of this Part to laboratories granted accreditation through reciprocity.

## Section 186.205 Acceptance of Out-of-State Accreditation

- a) The Agency will consider acceptance of an out-of-state laboratory's accreditation by another state or federal certifying authority as accreditation pursuant to this Part if the laboratory and the other state or federal accrediting authority's accreditation program meet the following requirements:
  - 1) The laboratory is accredited by the state accrediting authority of the state in which the laboratory is physically located or is accredited by a federal accrediting authority; and
  - 2) The state or federal accrediting authority's environmental laboratory accreditation requirements are equal to or exceed the requirements of this Part for the fields of testing, approved test methods and analytes for which accreditation is sought.
- b) If the laboratory is located in a state that does not offer environmental laboratory accreditation, the Agency will consider an out-of-state laboratory for accreditation if the laboratory meets the following requirements:
  - 1) The laboratory holds an accreditation from another state or federal accrediting authority for the fields of testing, approved test methods and analytes for which accreditation pursuant to this Part is sought;
  - 2) The state or federal accrediting authority performed an on-site evaluation; and
  - 3) The state or federal accrediting authority's environmental laboratory accreditation requirements are equal to or exceed the requirements of this Part for the fields of testing, approved test methods and analytes for which accreditation is sought.
- c) The laboratory seeking acceptance of an out-of-state accreditation



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shall:

- 1) submit the most recent on-site evaluation deficiency report and the laboratory's response to specified on-site deficiencies;
  - 2) submit a copy of the certificate issued to the laboratory by the accrediting authority;
  - 3) submit an application package as specified in Section 186.125 of this Part, including a current copy of the state or federal accrediting authority's rules regarding environmental laboratory accreditation; and
  - 4) notify the Agency in writing within 30 days of changes in the state or federal accrediting authority's program requirements and changes in the laboratory's status of accreditation. If notification is not received within 30 days, the laboratory accreditation shall be denied or revoked as specified in Section 186.210 of this Part.
- d) The Agency shall assess the fees required under Section 17.8 of the Act for out-of-state accreditation.
- e) The Agency or its designee may conduct an on-site evaluation or issue PE samples to a laboratory for the purpose of addressing questions which may include, but are not limited to, complaints from the public, requests from Agency personnel, discrepancies with PE sample results, on-site deficiencies, frequent errors in reporting data to the Agency, and suspicions of fraud regarding data quality. The laboratory shall pay for travel costs.
- f) The Agency shall issue certificates which contain the elements specified in Section 186.130(d)(2) of this Part to laboratories granted accreditation through acceptance of out-of-state accreditation.

**Section 186.210 Suspension, Revocation and Denial of Accreditation**

- a) Failure to comply with the requirements of this Part may lead to suspension of accreditation, revocation of accreditation, or denial of a laboratory's accreditation request. The Agency will evaluate the following factors when changing a laboratory's accreditation status:
  - 1) the length of time during which the failure has existed;
  - 2) the laboratory's past record of failures and response in correcting failures noted by the Agency;
  - 3) whether the laboratory knowingly caused or allowed the failure; and
  - 4) the potential effect of the failure on the quality of analytical data generated by the laboratory.
- b) The Agency may suspend a laboratory's accreditation in whole or in part if the laboratory fails:
  - 1) to complete, comply, maintain, revise, or replace any of the accreditation elements listed in Section 186.130(b)(3) through (12) and (14) through (17) of this Part; or
  - 2) to comply with the requirements regarding the use of the

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certificate of approval, scope of accreditation, or Agency logo as specified in Section 186.130(d) of this Part.

- c) The Agency will:
- 1) Suspend a laboratory's accreditation in whole or in part if the Laboratory fails:
    - A) to notify the Agency as required in Section 186.130(e) of this Part; or
    - B) to successfully analyze PE samples on two consecutive PE studies as specified in Section 186.170(n) of this Part.
  - 2) Suspend the accreditation of a laboratory accredited pursuant to Section 186.200 of this Part or Section 186.205 of this Part if the initial accrediting authority suspends accreditation.
  - d) A suspended laboratory shall not continue to analyze samples and represent the analyses as conducted pursuant to accreditation under this Part for the affected approved test methods or analytes.
    - 1) A suspension caused by the failure to successfully analyze PE samples on two consecutive occasions pursuant to Section 186.170(m) of this Part is effective immediately upon the laboratory's receipt of notification of the suspension pursuant to subsection (g) below.
    - 2) The Agency will change the laboratory's suspended status to accredited status when the laboratory demonstrates to the Agency that it complies with the accreditation elements listed in Section 186.130(b), (d), and (e) of this Part, Section 186.170(n)(4) or corrects other deficiencies that led to the suspension.
    - 3) If the laboratory fails to correct the causes of suspension within six months after the effective date of the suspension, the Agency will revoke the laboratory's accreditation.
  - e) The Agency will revoke a laboratory's accreditation in whole or in part for failure to:
    - 1) correct deficiencies in the application package, pursuant to Section 186.125(c)(1), (2) or (3) or (e)(1)(D)(i) of this Part;
    - 2) correct the causes of suspension pursuant to (b) and (c) above before the expiration of the period of suspension or provide correct information in the application package pursuant to Section 186.135(e)(2) of this Part;
    - 3) submit a plan of corrective action as specified in Section 186.135(f)(4) of this Part and Section 186.135(g)(3) of this Part;
    - 4) correct deficiencies as noted in Section 186.135(h)(2) and (3) of this Part; or
    - 5) successfully analyze three consecutive PE samples as specified in Section 186.170(n) of this Part.

For laboratories whose accreditation is issued pursuant to Section 186.200 of this Part or Section 186.205 of this Part, the Agency will revoke the accreditation of the laboratory if the applicable initial accrediting authority revokes the laboratory's accreditation.

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f) The Agency will revoke a laboratory's accreditation in whole if the laboratory:

- 1) falsifies results of testing;
- 2) falsifies the results of PE samples;
- 3) falsifies any information material to the laboratory's accreditation;
- 4) is convicted of charges of the falsification of any report of or relating to a laboratory analysis;
- 5) does not comply with Section 186.130(d)(5) through (10) of this Part;
- 6) engages in interlaboratory communication regarding a PE sample, pursuant to Section 186.170(j)(1) of this Part;
- 7) sends a PE sample to another laboratory and submits the results of analysis to the Agency, pursuant to Section 186.170(k)(1) of this Part;
- 8) knowingly receives for analysis and participates in the falsification of PE results, pursuant to Section 186.170(k)(3) of this Part; or
- 9) attempts to obtain the true values of PE samples prior to reporting deadlines, pursuant to Section 186.170(l)(1) of this Part.

g) The Agency will notify a laboratory of suspension, revocation or denial of accreditation by sending a certified letter to the laboratory's director.

- 1) The revocation, suspension or denial letter shall provide a narrative reason for the actions.
- 2) The Agency will remove an accredited laboratory's name from the Agency's publication listing accredited laboratories, described in Section 186.130(g) of this Part, when the laboratory's accreditation is revoked in whole.
- 3) A laboratory may appeal a decision of suspension, revocation or denial of accreditation according to Section 186.215 of this Part.
- 4) All revocations for causes stated in subsection (f) above are effective for a minimum of six months.
- 5) Laboratories that appeal suspension or revocation shall notify their clients of the pending proceedings.
  - A) The notice of a pending suspension or revocation proceeding must be in writing and affixed to all correspondence where the laboratory references its accreditation status and all reports of analyses conducted by the laboratory during the pendency of the proceedings. The words "suspension" or "revocation" must be utilized by the laboratory in this notification.
  - B) The laboratory shall affix the reasons for the proceedings to the notification pursuant to subsection (g)(5)(A).
  - C) The laboratory may add additional information and explanation to this notice.

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h) A laboratory whose accreditation has been revoked pursuant to subsection (e)(1), (2), (3), (4) or (6) may immediately reapply for accreditation.

i) A laboratory whose accreditation has been revoked pursuant to subsection (e)(5) may reapply for accreditation pursuant to Section 186.170(n)(6) of this Part.

j) A laboratory whose accreditation has been revoked pursuant to subsection (f) may apply for accreditation six months after the effective date of the revocation.

k) The Agency may summarily suspend or revoke the accreditation of any laboratory pending suspension or revocation, pursuant to Section 186.215 of this Part.

- 1) Analysis conducted by the laboratory while summarily suspended may not be utilized for drinking water compliance purposes.
- 2) The laboratory must clearly indicate in all reports that its accreditation has been summarily suspended pending suspension or revocation proceedings and that analytical results may not be utilized for drinking water compliance purposes.
- 3) Any suspension for failure to comply with Section 186.170(n) of this Part is effective immediately.
- 4) For all other analyses, the laboratory must clearly indicate on all analyses reports that its accreditation has been summarily suspended by the Agency pending proceeding pursuant to Section 186.215 of this Part.
- 5) Laboratories subject to summary suspension shall be afforded a hearing pursuant to Section 186.215(a)(2) of this Part.

l) The Agency will deny an applicant laboratory's request for accreditation for failure to comply with the requirements of this Part.

- 1) A laboratory whose accreditation request is denied pursuant to Section 186.170(j)(2), (k)(2), (k)(4), or (l)(2) of this Part or for fraud in the application process may reapply for accreditation six months after the effective date of the denial.
- 2) Any other laboratory may immediately reapply for accreditation.
- 3) A laboratory whose accreditation request is denied may appeal that decision by following the provisions of Section 186.215 of this Part.

## Section 186.215 Hearing, Decision and Appeal

a) The following procedures apply to all accreditation actions that are required by law to be preceded by notice and an opportunity to be heard. These actions include suspension, revocation, and denial of accreditation. Prior to revocation of accreditation, the Agency shall give written notice of revocation by certified mail to the laboratory's director. The notice shall state the facts or conduct and the Sections of this Part that form the basis for the revocation decision. The notice of revocation letter shall also state the

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effective date of the revocation and set forth the procedures for requesting a hearing.

- 1) All revocations, except revocations pursuant to Section 186.170(n)(5) of this Part, are effective 15 days after the laboratory receives the notice of revocation letter, unless the laboratory files a written notice of appeal prior to the 15th day. The Agency shall not extend the 14 day appeal period. The notice of appeal shall be filed by certified mail, hand delivery, or telefacsimile followed by certified mail with the Agency in care of the Manager, Division of Laboratories, 1340 N. Ninth Street, P.O. Box 19276, Springfield, Illinois 62794-9276.

- 2) Revocations pursuant to Section 186.170(n)(5) of this Part are effective immediately. The laboratory may request a hearing pursuant to the provisions of subsection (c).

- b) Prior to suspension of a laboratory, the Agency shall give written notice of the suspension by certified mail to the laboratory's director. The notice of suspension shall state the facts or conduct and the Sections of this Part that form the basis for the decision. The notice of suspension letter shall also state the effective date of the suspension and set forth the procedures for requesting a hearing.

- 1) All suspensions, except for suspensions pursuant to Section 186.170(n)(2) of this Part, are effective 15 days after the laboratory receives the notice of suspension letter, unless the laboratory files a written notice of appeal prior to the 15th day. The Agency shall not extend the 14 day appeal period. The notice of appeal shall be filed by certified mail, hand delivery, or telefacsimile followed by certified mail with the Agency in care of the Manager, Division of Laboratories, 1340 North Ninth Street, P.O. Box 19276, Springfield, Illinois 62794-9276.

- 2) Suspensions pursuant to Section 186.170(n)(2) of this Part are effective immediately. The laboratory may request a hearing pursuant to the provisions of subsection (c).

- c) Notwithstanding any other provision in this Part, if the Agency finds that the public interest, safety, or welfare imperatively requires emergency action and if the Agency incorporates this finding in its notice of revocation or suspension, or for revocations or suspensions pursuant to Section 186.170(n)(2) or (n)(5) of this Part, summary suspension of all or part of a laboratory's accreditation may be ordered, pending proceedings for revocation or suspension as provided in Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65]. The hearing on revocation or suspension shall be promptly initiated and determined after the filing of a notice of appeal by a laboratory subject to summary suspension pending revocation or suspension proceedings.

- d) The Agency shall give written notice of its denial of an accreditation request by certified mail to the laboratory director. The laboratory may appeal the decision by filing a notice of appeal with the Agency within 14 days after receipt of the notice of denial letter. The

## ENVIRONMENTAL PROTECTION AGENCY

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notice of appeal shall be filed by certified mail, hand delivery, or telefacsimile followed by certified mail with the Agency in care of the Manager, Division of Laboratories, 1340 North Ninth Street, P.O. Box 19276, Springfield, Illinois 62794-9276.

- e) All hearings pursuant to this Part shall be held in Springfield, Illinois. Should a hearing be requested, the Director shall appoint one or more Agency employees or may appoint a nonagency employee to chair the proceedings. The hearing shall be conducted in accordance with the hearing requirements of Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10].

- f) The Director shall make a decision within 30 days after receiving the hearing transcript. The Director shall give written notice by certified mail of the decision, including its basis, to the laboratory director.

- g) Within 35 days after its receipt of a notice of decision pursuant to subsection (f), the laboratory may file an appeal to the Illinois Pollution Control Board.

## Section 186.220 Confidential Documents

Information maintained or obtained by the Agency concerning each accredited laboratory, applicant laboratory, or entity petitioning the Agency for approval of its PE program or entity whose PE program has been approved by the Agency is available for public inspection pursuant to the terms of the Freedom of Information Act [5 ILCS 140], Section 7 and Section 7.1 of the Act and regulations promulgated pursuant to those Acts (2 Ill. Adm. Code 1826, 2 Ill. Adm. Code 1827). Information identified as trade secret or confidential business information that meets the requirements of the Act, the Freedom of Information Act or the regulations will not be subject to release under the Freedom of Information Act. Those asserting the confidentiality of documents are urged to follow the procedures of 2 Ill. Adm. Code 1826 and 1827.

## Section 186.225 Severability

If any provision of this Part is adjudged invalid, or if its application to any person or in any circumstance is adjudged invalid, such invalidity does not affect the validity of this Part as a whole, or any other Subpart, Section, subsection, sentence or clause not adjudged invalid.



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## Section 186. APPENDIX A Required Method Detection Limits (MDL) or Pattern Recognition Levels (PRL) for Drinking Water Laboratory Accreditation

Analyte	MDL
<b>Synthetic Organic Compounds (SOCs)</b>	
2,4-D	7 ug/L
2,3,7,8-TCDD (Dioxin)	5x10(-6) ug/L
2,4,5-TP (Silvex)	5 ug/L
Alachlor	0.2 ug/L
Aldicarb	1 ug/L
Aldicarb Sulfone	1 ug/L
Aldicarb Sulfoxide	1 ug/L
Aldrin	0.1 ug/L
Atrazine	0.3 ug/L
Benzo[a]pyrene	0.02 ug/L
Carbofuran	4 ug/L
Chlordane	0.2 ug/L
Dalapon	20 ug/L
DDT	5 ug/L
Di(2-ethylhexyl)phthalate	0.6 ug/L
Di(2-ethylhexyl)adipate	40 ug/L
Dibromochloropropane (DBCP)	0.02 ug/L
Dieldrin	0.1 ug/L
Dinoseb	0.7 ug/L
Diquat	2 ug/L
Endothall	10 ug/L
Endrin	0.2 ug/L
Ethylene dibromide (EDB)	0.04 ug/L
Glyphosate	70 ug/L
Heptachlor Epoxide	0.02 ug/L
Heptachlor	0.04 ug/L
Hexachlorobenzene	0.1 ug/L
Hexachlorocyclopentadiene	5 ug/L
Lindane	0.02 ug/L
<b>SOCs</b>	
Methoxychlor	4 ug/L
Oxamyl (Vydate)	20 ug/L
PCBs as decachlorobiphenyl	0.4 ug/L
Pentachlorophenol (PCP)	0.1 ug/L
Picloram	50 ug/L
Simazine	0.4 ug/L
Toxaphene	1 ug/L

**Unregulated SOCs**

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Analyte	MDL
Butachlor	0.4 ug/L
Carbaryl	2.0 ug/L
Dicamba	0.3 ug/L
3-Hydroxycarbofuran	2.0 ug/L
Methomyl	0.5 ug/L
Metolachlor	0.8 ug/L
Metribuzin	0.2 ug/L
Propachlor	0.5 ug/L
<b>Inorganics</b>	
Antimony	6 ug/L
Arsenic	50 ug/L
Asbestos	7 MLF
Barium	2000 ug/L
Beryllium	4 ug/L
Cadmium	5 ug/L
Calcium	NA
Chloride	250 mg/L
Chromium	100 ug/L
Copper	1000 ug/L
<b>Inorganics</b>	
Cyanide	200 ug/L
Fluoride	2000 ug/L
Iron	300 ug/L
Lead	15 ug/L
Manganese	50 ug/L
Mercury	2.0 ug/L
Nickel	100 ug/L
Nitrate	5.0 mg/L
Nitrite	500 ug/L
pH	NA
Selenium	50 ug/L
Silver	100 ug/L
Sodium	NA
Sulfate	250 mg/L
TDS	500 mg/L
Thallium	2 ug/L
Total Alkalinity	NA
Zinc	5000 ug/L
<b>Volatile Organic Compounds (VOCs)</b>	
1,2,4-Trichlorobenzene	0.5 ug/L
1,1-Dichloroethylene	0.5 ug/L
1,1,2-Trichloroethane	0.5 ug/L

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## Analyte MDL

1,2-Dichloroethane	0.5 ug/L
1,2-Dichloropropane	0.5 ug/L
1,1,1-Trichloroethane	0.5 ug/L
Benzene	0.5 ug/L
Carbon tetrachloride	0.5 ug/L
cis-1,2-Dichloroethylene	0.5 ug/L
<b>VOCs</b>	
Dichloromethane	0.5 ug/L
Ethylbenzene	0.5 ug/L
Monochlorobenzene	0.5 ug/L
o-Dichlorobenzene	0.5 ug/L
para-Dichlorobenzene	0.5 ug/L
Styrene	0.5 ug/L
Tetrachloroethylene	0.5 ug/L
Toluene	0.5 ug/L
trans-1,2-Dichloroethylene	0.5 ug/L
Trichloroethylene	0.5 ug/L
Vinyl chloride	0.5 ug/L
Xylenes (total)	0.5 ug/L
<b>Unregulated VOCs</b>	
1,2,3-trichloropropane	0.5 ug/L
1,1,1,2-tetrachloroethane	0.5 ug/L
cis-1,3-dichloropropene	0.5 ug/L
hexachlorobutadiene	0.5 ug/L
trans-1,3-dichloropropene	0.5 ug/L
<b>THMs Total</b>	
Bromodichloromethane	0.5 ug/L
Bromoform	NA
Chlorodibromomethane	NA
Chloroform	NA
<b>PCBs as Aroclors</b>	
Aroclor 1016	PRL
Aroclor 1221	0.26 ug/L
	0.19 ug/L
<b>PCBs as Aroclors</b>	
Aroclor 1232	PRL
Aroclor 1242	0.23 ug/L
Aroclor 1248	0.26 ug/L
Aroclor 1254	0.30 ug/L
Aroclor 1260	0.33 ug/L
	0.36 ug/L

## ILLINOIS FARM DEVELOPMENT AUTHORITY

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- 1) Heading of the Part: Illinois Farm Development Authority
- 2) Code Citation: 8 Ill. Adm. Code 1400
- 3) Section Numbers: Proposed Action:  
1400.140 Amendment  
1400.145 Repealed  
1400.146 Amendment  
1400.147 Amendment  
1400.148 Amendment
- 4) Statutory Authority: 20 ILCS 3605/7
- 5) A Complete Description of the Subjects and Issues Involved: The changes are to incorporate Public Acts 89-154 and 89-527 and changes in Authority policies.
- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: Not applicable
- 11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: All interested persons are invited to submit their written comments on the proposed action at any time during the first notice period to:  

Laura A. Lanterman  
Chief Financial Officer  
Illinois Farm Development Authority  
427 East Monroe Street, Suite 201  
Springfield, IL 62701  
217/782-5792
- 12) Initial Regulatory Flexibility Analysis:  
  - A) Types of small businesses, small municipalities and not for profit corporations affected: Farms
  - B) Reporting, bookkeeping or other procedures required for compliance:  
No new measures required.

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C) Types of professional skills necessary for compliance: No new skills required.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated at that time.

The full text of the Proposed Amendments begins on the next page:

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## TITLE 8: AGRICULTURE AND ANIMALS

## CHAPTER VII: ILLINOIS FARM DEVELOPMENT AUTHORITY

## PART 1400

## ILLINOIS FARM DEVELOPMENT AUTHORITY

Section	
1400.10	Definitions
1400.20	Composition, Appointment and Terms of Office
1400.30	Officers
1400.40	Executive Director
1400.50	Meetings
1400.60	Quorum
1400.70	Reimbursement
1400.80	Rules of Order
1400.90	Records and Reports
1400.100	Public Participation
1400.110	Rulemaking Procedures
1400.120	Purchasing Rules and Regulations
1400.130	Rules and Guidelines Applicable to All Bond Programs
1400.140	Bond Programs and Rules Applicable to Each
1400.145	Rules and Guidelines Applicable to the Interest Buy Down Program (Repealed)
1400.146	Rules and Guidelines Applicable to the Young Farmer Guarantee Program
1400.147	Rules and Guidelines Applicable to the State Guarantee Program for Restructuring Agricultural Debt
1400.148	Rules and Guidelines Applicable to the <u>Specialized Livestock Guarantee Farm-Debt-Relief Program</u>
1400.149	Rules and Guidelines Applicable to the State Guarantee Program for Agri-Industries
1400.150	Seal
1400.160	Principal Office
1400.170	Revision
1400.180	Construction; Waiver; Severability
ILLUSTRATION A	OIALP Regions (Repealed)

**AUTHORITY:** Implementing and authorized by the Illinois Farm Development Act (20 ILCS 3605) and by the Farm Credit Allocation Act (20 ILCS 3610).

**SOURCE:** Emergency rules adopted at 6 Ill. Reg. 9340, effective July 15, 1982, for a maximum of 150 days; adopted at 7 Ill. Reg. 242, effective December 22, 1982; emergency amendment at 8 Ill. Reg. 363, effective December 27, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 8489, effective May 31, 1984; emergency amendment at 9 Ill. Reg. 8186, effective May 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 15493, effective October 1, 1985; emergency amendment at 9 Ill. Reg. 17879, effective October 31, 1985, for a maximum of 150 days; emergency expired March 21, 1986; emergency amendment at 10 Ill. Reg.



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2059, effective January 10, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 4599, effective February 28, 1986, for a maximum of 150 days; emergency expired July 28, 1986; amended at 10 Ill. Reg. 11001, effective June 9, 1986; amended at 11 Ill. Reg. 3862, effective February 27, 1987; amended at 11 Ill. Reg. 9894, effective May 12, 1987; amended at 12 Ill. Reg. 11219, effective June 20, 1988; amended at 13 Ill. Reg. 2440, effective February 10, 1989; amended at 13 Ill. Reg. 14376, effective August 30, 1989; amended at 17 Ill. Reg. 3618, effective March 5, 1993; amended at 17 Ill. Reg. 15808, effective September 10, 1993; amended at 19 Ill. Reg. 7582, effective May 26, 1995; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 1400.140 Bond Programs and Rules Applicable to Each

## a) Beginning Farmer Program.

1) Purpose. This program is intended to facilitate the acquisition, construction or reconstruction of agricultural land and improvements and depreciable agricultural property by beginning farmers, as hereinafter defined. Eligible loan activities under this program consist of financing purchases of the following:

- A) Depreciable agricultural property.
- B) Agricultural improvements. Examples are: confinement systems for swine, cattle, or poultry, barns and other out buildings, silos, tiling and soil conservation practices such as terraces, farm ponds, erosion control structures, waterways, etc.

## C) Agricultural land.

2) Eligibility Requirements Particular to the Beginning Farmer Program.

- A) The eligible applicant must be a beginning farmer. "Beginning farmer" means an individual with a low or moderate net worth who engages in farming or wishes to engage in farming.
- B) Low or moderate net worth means an aggregate net worth of an individual and the individual's spouse and minor children, if any, of less than two-hundred-fifty-thousand-dollars \$200,000 (\$250,000).
- C) Net worth means total assets minus total liabilities as determined by the lender, in accordance with rules of the Authority and accepted accounting procedures.
- D) Total assets shall include, but not be limited to the following: cash crops or feed on hand; livestock held for sale; breeding stock; marketable bonds and securities; securities (not readily marketable); accounts receivable; notes receivable; cash invested in growing crops; net cash value of life insurance; machinery and equipment, cars and trucks; farm and other real estate including life estates and personal residence; value of beneficial interest in a

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trust; government payments or grants; any other assets. (Section 2(1) of the Act). Total assets shall not include items used for personal, family or household purposes by the applicant, but in no event shall such property be excluded to the extent that a deduction for depreciation is allowable for federal income tax purposes. All assets shall be valued at fair market value by the participating lender. Such value shall be what a willing buyer would pay a willing seller in the locality. A deduction of ten percent may be made from fair market value of farm and other real estate. Total liabilities shall include, but not be limited to, the following: accounts payable; notes or other indebtedness owed to any source; taxes; rent; amount owed on real estate contracts or real estate mortgages; judgments; accrued interest payable; any other liabilities. (Section 2(m) of the Act).

3) Issuance of Bond. Following approval of the loan, the Authority shall issue a bond, to be purchased by the participating lender, in the amount and fitting the terms of the loan to the farmer.

4) This program takes effect upon adoption pursuant to this Part.

## b) Agricultural Manufacturing Bond Program

1) Purpose. This program is designed to encourage the development and expansion of agribusiness manufacturing operations in Illinois. The intention of this program is to enhance economic growth in Illinois by creating and saving jobs in the rural areas of the State.

2) Eligibility Requirements Particular to the Agricultural Manufacturing Bond Program.

A) The applicant must be an agribusiness as defined in the Act and in Section 1400.10 of this Part. The applicant must also be a "manufacturing facility" as defined in Section 144(a)(12)(C) of the Internal Revenue Code of 1986. This means any facility which is used in the manufacturing or production of tangible personal property (including the processing resulting in a change in the condition of such property).

B) The applicant, including all affiliates and subsidiaries, must have no more than 100 employees at the time of application or have had gross income of no more than \$2 million for the calendar year preceding the date of application. "Gross income" for this purpose means the amount of gross income properly reportable for federal income tax purposes for the taxable year under the provisions of the Internal Revenue Code of 1986.

C) The IFDA shall waive the requirements of subsection Section 1400-140 (b)(2)(B) for any Agricultural Manufacturing Facility which at the time of application does not operate a facility within the State of Illinois.

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- 3) The amount of a loan authorized herein to any agricultural manufacturing facility shall be limited by Section 144(a)(4)(A) of the Internal Revenue Code of 1986 with respect to the issuance of small issue industrial development bonds. In no event shall any loan to any one agricultural manufacturing facility exceed \$10 million.
- 4) Issuance of Bond. Following approval of the loan, the Authority shall issue a bond, in the amount of and fitting the terms of the loan, to be purchased by the participating lender.
- 5) This program takes effect upon adoption pursuant to this Part.
- 6) The applicant must pay a \$100 \$200 fee at the time of application.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1400.145 Rules and Guidelines Applicable to the Interest Buydown Program (Repealed)

- a) General Description of Program. The Interest-Buydown-Program (IBBP) is intended to provide farmers with farm-operating credit at affordable costs to Illinois farmers. The provisions of this Section 1400.145 are applicable only to the IBBP and the provisions of Section 1400.139 and 1400.140 of this Part are inapplicable to the loans and procedures provided for pursuant to this Section.
- b) Definitions Applicable to IBBP Only.
 

Operating loan means a loan to an applicant in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, feeding, and management of livestock or poultry on a farm of which the applicant is the owner, tenant, or operator for the current year's operating expenses. (Ill. Rev. Stat. 19057-chr 57-par-1253(b))
- c) Payment-Adjustment means an amount of money equal to one-half of the total interest payable on the principal of an operating loan. (Ill. Rev. Stat. 19057-chr-57-par-1253(d))
- e) Applicant Eligibility.
  - 1) The applicant must be a resident of the State of Illinois. To be considered a resident, the applicant must maintain a dwelling place in the State.
  - 2) The applicant must be the principal operator of the farm or land for which the loan is contemplated to be used.
  - 3) The applicant is only eligible for one IBBP loan per any one farm operation, based on the previous year's filing of Federal income tax Return Form 7. One IBBP loan can be made to each entity filing a separate Federal income tax Return Form 7.
  - 4) The applicant must demonstrate that his/her debt-to-asset ratio

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- is not less than 55% on the date of application.
- 5) The applicant must be determined to be creditworthy by the lender.
- 6) The applicant must agree to secure the payment adjustment.
- 7) The applicant cannot be a lender or an employee of a lender or an employee or member of the board of the Authority.
- 8) The applicant must certify that the purposes of the operating loan will be used for the qualified purposes of the IBBP.
- d) Qualified Purposes. Eligible loan activities under the program consist of financing an operating loan to be used during the year in which the loan is made in connection with cultivating the soil and planting, raising and harvesting any agricultural or horticultural commodity on a farm of which the applicant is the principal operator and shall not be used to prepay a prior loan or to replace the proceeds therefrom.
- e) Participating lenders. Any federal or State chartered bank, federal and bank, production credit association, bank for cooperative federal or State chartered savings and loan association or building and loan association, business investment company or any other institution qualified within this State to originate and service loans, including but without limitation to insurance companies, credit unions and mortgage loan companies. (Ill. Rev. Stat. 19057-chr 57-par-1253(c))
- f) Required terms of the loan.
  - 1) The maximum principal amount of an operating loan through the IBBP is \$150,000.
  - 2) The effective interest rate that can be charged on an IBBP loan shall not exceed the lesser of the prevailing farm operating loan rate or 13.0 percent. The lender must establish the interest rate when the application is made. The interest rate shall be at a fixed or variable rate.
  - 3) All operating loans under the IBBP shall be due and payable within 14 months after the operating loan is granted.
- g) Application Procedures and Review.
  - 1) The farmer may apply for forms provided by the Authority for an IBBP loan with any participating lender. The applicant must provide a \$75.00 non-refundable application fee. Any loan approved will be assigned to that participating lender. If a farmer meets the IBBP eligibility requirements, the decision on whether to enter into the loan agreement is between the farmer and the participating lender. They must agree on terms of the loan, such as interest rates, length of loan, down payment, service fees, origination charges and repayment schedule, within the confines of the required terms set out under subsection (f) above.
  - 2) The application period for loans through the IBBP will commence on May 1 and end on June 14 of the applicable year.
  - 3) Following completion of the loan application by the farmer and



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approval by the participating lender, the loan application must be submitted to the Authority for its review and approval pursuant to Sections 1400-145(g)(4) and 1400-145(g)(5). The Authority's review will include, but not be limited to, whether the loan applicant is an eligible farmer under subsection (c) hereof; whether the loan proceeds will be used for qualified purposes under subsection (d) hereof; and whether the terms of the loan comply with subsection (f) hereof.

4) When an IBP application is submitted to the Authority, the Executive Director shall review the IBP application to determine whether it is complete and whether the criteria established by the Emergency Farm Credit Allocation Act and these rules have been satisfied. The Executive Director must have completed the review process by June 15 of the applicable year.

A) If the Executive Director determines that the loan application is incomplete, he shall, within 5 days of such determination, inform the applicant and the participating lender of such determination and shall detail the information or material which is necessary to complete the application. For the purposes of subsection (f), no application shall be deemed complete until the applicant or participating lender has provided additional information or material as requested by the Executive Director.

B) When the Executive Director has completed his review of the IBP application, he shall present the IBP application, with a statement of recommended action, to the board at its next regularly scheduled or special meeting.

5) The Board shall review each IBP application presented by the Executive Director on or before June 15 of the applicable year in accordance with the provisions of the Act and these rules and the board shall:

A) Approve the loan pursuant to the Act; the Emergency Farm Credit Allocation Act and these rules; or

B) Deny the application and serve upon the applicant and the participating lender a written statement of the grounds of denial.

h) Source of Payment and Nature of Obligation--Payment of the obligation will be as set forth in Section 9 of the Emergency Farm Credit Allocation Act; the applicant must collateralize 100% of the payment adjustment.

i) Priority of Applications--The Authority is authorized under the Emergency Farm Credit Allocation Act to approve payment adjustments in an aggregate amount not to exceed 25 million dollars. Applications will be processed by the Authority on a first-come, first-served basis, based upon the receipt of all completed documents by the Authority. Priority shall be given to those applications which are received by the Authority the earliest. The Authority may deviate from the first-come, first-served rule to fully utilize the allocation

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for payment adjustments.

j) Post-issuance Certification--No IBP proceeds may be used for a non-qualified purpose or by a non-eligible user. Following disbursement of the loan proceeds, the farmer shall certify to the Authority that the proceeds were used by that farmer for a qualified purpose.

k) Assumption of Loans--Substitution of Security and Transfer of Property--Loans may not be assumed without the prior approval of the Authority and then only if the purchaser of the property is an eligible applicant for an IBP loan. A written request for assumption of a loan must be submitted to the Authority, and the person assuming the loan must submit a completed IBP application and otherwise meet all requirements of the IBP. Approval shall be given if the transfer maintains 100% collateralization of the payment adjustment.

(Source: Repealed at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 1400.146 Rules and Guidelines Applicable to the Young Farmer Guarantee Program

a) General Description of Program. The Young Farmer Guarantee Program (YFG) is designed to enhance credit availability to younger farmers who are purchasing capital assets. Loan funds may be used for new purchases of capital assets such as land, buildings, machinery, equipment, breeding livestock, soil and water conservation projects, etc. In some cases, up to 50% of the loan proceeds may be used to refinance existing debt as needed to improve lien positions. The provisions of this Section are applicable only to the YFG.

b) Definitions Applicable to the YFG.

"Applicant" means a farmer whose application for a Young Farmer Guarantee has been submitted to the Authority by a lender.

"Asset" includes, but is not limited to, the following: cash crops or feed on hand; livestock held for sale; breeding stock; cash; marketable bonds and securities; securities not readily marketable; accounts receivable; notes receivable; cash invested in growing crops; net cash value of life insurance; machinery and equipment; cars and trucks; farm and other real estate including life estates and personal residence; value of beneficial interest in trusts; government payments or grants; capitalized leases; retirement accounts; and any other assets. [20 ILCS 3605/2]

"Debt to Asset Ratio" means total outstanding liabilities, including any debt to be financed or refinanced under this Section, divided by total outstanding assets. [20 ILCS 3605/12.4]



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"Fund" means the Illinois Farmer and Agribusiness Loan Guarantee Fund, which is the State's fund to cover losses resulting from defaults on young farmer guarantee loans. [20 ILCS 3605/12.4]

"Gross Annual Income" means income as defined in Section 61 of the Internal Revenue Code (26 U.S.C. 61).

"Liability" includes, but is not limited to, the following: accounts payable; notes or other indebtedness owed to any source; taxes; rent; amounts owed on real estate contracts or real estate mortgages; judgments accrued; interest payable; indebtedness under capitalized leases; and any other liability. [20 ILCS 3605/2]

"YFG Loan" means an installment note for which the State of Illinois shall be liable for 85% of the total principal and interest as determined by the Authority.

"Young Farmer" means a resident of Illinois who is at least ~~eighteen~~-18 years of age, who is a principal operator of a farm or land, who derives or will derive at least 50% of gross annual income from farming, who has a net worth of not less than \$10,000 ~~net more than~~ \$250,000, and whose debt to asset ratio is not less than 40%. [20 ILCS 3605/12.4]

c) Eligible Farmers. To qualify for participation in the YFG, each farmer must:

- 1) be at least ~~eighteen~~-18 years of age and maintain his principal residence in the State; [20 ILCS 3605/12.4];
- 2) be the principal operator of a farm who derives or will derive at least 50% of annual gross income from farming; [20 ILCS 3605/12.4];
- 3) have a debt to asset ratio of 40% to 70% after purchase of the capital item and have a net worth of not less than \$10,000 ~~and net more than \$250,000~~; [20 ILCS 3605/12.4];
- 4) demonstrate the ability to adequately service the proposed debt. If this ability is not adequately demonstrated, he can have a guarantor sign the note with him and/or pledge additional collateral for the loan;
- 5) provide sufficient collateral to secure the YFG loan and agree to keep it adequately collateralized in the future. All real estate and depreciable property which is to be used as collateral on a YFG loan must be evaluated by a qualified appraiser. All real estate appraisals must meet Federal regulatory requirements and meet the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation. Auctioneers and machinery and equipment dealers are qualified to appraise depreciable property. The applicant is liable for all appraisal fees connected with the YFG Loan;

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6) certify that all of his debts will be current at the time the YFG loan is closed. [20 ILCS 3605/12.4]

d) Limitations

- 1) YFG loans shall not exceed \$300,000 per young farmer. A young farmer may use this program more than once provided the aggregated principal amount of YFG loans to that young farmer does not exceed \$300,000. [20 ILCS 3605/12.4];
- 2) each YFG loan shall be set up on a payment schedule not to exceed 30 years, but shall be no longer than 15 years in duration. [20 ILCS 3605/12.4] The payment schedule for the loan will be tailored to the applicant's collateral and cash flow. Real estate loans may be amortized up to 25 twenty-five years with a 15 fifteen year balloon. Loans with depreciable property as collateral will be amortized over a shorter period.
- 3) The YFG loan can be fully or partially paid at any time while the loan is outstanding as long as the loan is held in the lender's portfolio and not sold into a secondary market. YFG loans may not be assumed.

e) Application Procedures and Review.

- 1) Lenders shall apply for the YFG loans on forms provided by the Authority. The application shall at a minimum contain the young farmer's name, address, present credit and financial information, including cash flow statements, financial statements, balance sheets, and any other information pertinent to the application, and the collateral to be used to secure the State guarantee. [20 ILCS 3605/12.4]- Applications shall be processed by the Authority on a first come, first served basis, based upon the receipt of all completed documents by the Authority.
- 2) Lenders shall certify that the application and any other documents submitted are true and correct. [20 ILCS 3605/12.4]
- 3) Each applicant shall pay a \$300 application fee which will be submitted to the Authority at the time of the application. At the time the loan is closed, the applicant will be required to pay a closing fee of 3/4 of 1% of the YFG loan amount less the \$300 application fee. Of this 3/4 of 1% closing fee, the Authority shall receive 1/2% and the lender shall receive 1/4% to cover administrative expenses in completing the application packet and closing documents. The 3/4 of 1% closing fee may be included in the State Guarantee loan amount. The lender shall charge no fees or points in addition to those outlined herein. The applicant shall be responsible for paying any fee or charge involved in recording mortgages, releases, financing statements, insurance for secondary market issues, and any other similar fee or charge that the authority may require. [20 ILCS 3605/12.4]
- 4) When a State Guarantee application is submitted to the Authority, the Authority shall review the application to determine whether it is complete and whether it meets the criteria established by the Act and this Section. When the Authority has completed the

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review of the Guaratee application, the application shall be presented, along with a statement of recommended action, to the Board for review at its next regularly scheduled meeting. The review shall include whether the applicant and lender are in compliance with the requirements of the program. The review shall also include an evaluation of collateral, percentage of loan, debt to asset ratio, cash flow, etc.

5) The Board shall approve the application and provide the Guaratee, pursuant to the Act and this Section; or, deny the application and serve upon the lender and applicant a written statement of the grounds for the denial.

6) If the application is denied, the applicant and the lender may request reconsideration stating reasons why the Board should withdraw its denial of the application and approve the State Guaratee. The request should be accompanied by supporting documents and/or information not previously considered by the Board. The Board shall review the request at its next scheduled meeting, and shall either approve or deny the application. A denial of a request for reconsideration shall be final.

7) Upon approval of an application and receipt of the documentation necessary to prepare loan closing documents, a YFG Loan Closing Documents package, which contains all the appropriate forms and documents to execute, shall be prepared by the Authority and sent to the lender. Upon completion of all such forms and documents by the applicant, lender and Authority and after satisfaction of all loan closing requirements, the YFG loan guaratee will be considered in force.

f) Provision or Renewal of State Guarantees. The Authority shall provide or renew a State Guaratee to any lender if, in addition to meeting the other criteria described in the Act and this Section, the lender:

- 1) charges a fixed or adjustable interest rate that the Authority determines to be below the market rate of interest generally available to the borrower. If both the lender and applicant agree, the interest rate on the YFG loan can be converted to a fixed interest rate at any time during the term of the loan; [20 ILCS 3605/12.4]i.
- 2) agrees to pay to the authority an annual fee equal to 25 basic points on the loan; [20 ILCS 3605/12.4]i.
- 3) agrees to complete and certify that, to the best of the lender's knowledge, all information is true and correct on the application, balance sheets, security analysis, cash flow projection and any other documents submitted; [20 ILCS 3605/12.4]i.
- 4) identifies collateral acceptable to the Authority in accordance with subsection (h) that is at least equal to the State Guaratee loan request; [20 ILCS 3605/12.4]i.
- 5) assumes all responsibility and costs for pursuing legal action on collecting any loan that is delinquent or in default subject to

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consulting the Authority; [20 ILCS 3605/12.4]i.  
6) assumes responsibility for and agrees to absorb the first 15% loss of the outstanding principal of the note for which the State Guaratee has been applied; [20 ILCS 3605/12.4]i.

7) assumes responsibility for the timely collection and disposition of collateral on a YFG loan that is in default; provided, however, that the lender shall not collect or dispose of collateral on the YFG loan without the express written prior approval of the Authority. Approval shall be granted if the collateral is disposed of in a commercial manner, which nets an amount closely approximating the value of the collateral;

8) agrees that the Authority has final approval on the sale of all collateral for the YFG loan. After the sale of collateral, the State shall be reimbursed its 85% guaranteed portion of the principal balance at default. If funds from the sale of collateral remain after this payment, the lender shall be reimbursed its 15% of the principal balance at default. If excess funds remain after paying the principal to the State and lender, then the State and lender shall be repaid interest on a prorated basis; 85% of such excess funds shall be allocated to the State's portion and 15% shall be allocated to the lender's portion.

9) The YFG loan shall be reviewed annually by the lender and IFDA [20 ILCS 3605/12.4] for adequacy of collateral and performance by the applicant. The applicant is required to provide the lender with a current financial statement annually.

1) If it is determined that there is not sufficient collateral to adequately secure the YFG loan, additional collateral may be required. If the applicant is unwilling or unable to pledge additional collateral, the YFG loan may be called due and payable.

2) If a YFG loan is going to be called for any reason, written notice which specifies the reasons for said action must be served to all parties (IFDA, lender, and borrower) not less than 90 ninety days prior to call of the loan.

3) Failure of the applicant to make any payment on or before its due date shall render the loan delinquent. Notice of this delinquency shall immediately be sent to all parties. If the loan remains delinquent for a period of 90 days, the total outstanding principal and interest shall become due and payable immediately on the entire YFG loan. The YFG loan cannot be reinstated after the 90-day delinquency period.

h) In the event of default that is not cured within 90 ninety days or in the event a loan is called for any reason, the Authority shall make payment of the guaranteed portion of the YFG loan to the holder of the guaratee. This payment shall be equal to the sum of:

- 1) 85% of the principal balance as of the date of default or date of call less any proceeds received from sales of collateral;

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- 2) 85% of the interest balance as of the date of default or call; and
- 3) 85% of the interest accrued from the date of default or call until the date payment is made up to a maximum of 120 days.
- i) *The Illinois Farmer and Agribusiness Loan Guarantee Fund shall be used to secure State guarantee on YFG loans.* [20 ILCS 3605/12.4]
- 1) The Authority shall guarantee up to \$35,000,000 in loans through the State Livestock Guarantee Program (SLP), YFG and State Guarantee Program for Agri-Industries (SGPAI). The Illinois Farmer and Agribusiness Loan Guarantee Fund shall be funded with \$10,000,000 to cover any losses under these programs.
- 2) The Authority shall direct payments from this fund to guarantee holders as described in subsection (h) above.
- 3) Monies returned to the State on the disposition of collateral as described in subsection (f) above shall be deposited to this fund.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 1400.147 Rules and Guidelines Applicable to the State Guarantee Program for Restructuring Agricultural Debt

- a) General Description of Program. The State Guarantee Program ("SGP") is intended to provide farmers who are experiencing financial difficulties caused by high interest rates and low commodity prices with a debt restructuring schedule to consolidate and spread out existing debt over a longer term at a reduced interest rate so that farmers will be able to continue existing farming operations. The provisions of this Section 1400.147 of this Part are applicable only to the SGP, and the provisions of Sections 1400.130 and 1400.140 of this Part are inapplicable to the SGP and procedures provided for pursuant to this Section.
- b) Definitions Applicable to the SGP only.

"Applicant" means a farmer whose application for a State Guarantee has been submitted to the Authority by a lender.

"Asset" includes, but is not limited to, the following: cash crops or feed on hand; livestock held for sale; breeding stock; cash; marketable bonds and securities; securities not readily marketable; accounts receivable; notes receivable; cash invested in growing crops; net cash value of life insurance; machinery and equipment; cars and trucks; farm and other real estate including life estates, personal residence, and value of beneficial interests ~~life-interest~~ in trusts; government payments or grants; capitalized leases; retirement accounts; and all any other property and assets.

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"Current Outstanding" means on the date of the application for any State Guarantee.

"Current Status" means the absence of any arrearages in any previously incurred debt for which a State Guarantee is sought.

"Debt to Asset Ratio" means the current outstanding liabilities of the farmer divided by the current outstanding assets of the farmer. [20 ILCS 3605/12.1]

"Farmer" means a resident of Illinois, who is a principal operator of a farm or land, at least 50% of whose gross annual income is derived from farming and whose debt to asset ratio shall not be less than 40%, except in those cases where the applicant has previously used the Guarantee Program there shall be no debt to asset ratio restriction. [20 ILCS 3605/12.1]

"Fund" means the Illinois Agricultural Loan Guarantee Fund, which is the State's fund to cover losses resulting from defaults on State Guarantee loans. [20 ILCS 3605/12.1]

"Gross Annual Income" means income as defined in Section 61 of the Internal Revenue Code (26 U.S.C. 61).

"Liability" includes, but is not limited to, the following: accounts payable; notes or other indebtedness owed to any source; taxes; rent; amounts owed on real estate contracts or real estate mortgages; judgments accrued; interest payable; indebtedness under capitalized leases; and all any other liabilities. ~~liabilities.~~ [20 ILCS 3605/2]

"State Guarantee" means a note for which the State of Illinois shall be liable for 85% of the total principal and interest of the note as determined by the Authority.

- c) Eligible Farmers. To qualify for participation in the SGP, each farmer must:
- 1) maintain his principal residence in the State;
  - 2) be at least ~~eighteen--~~ 18+ years of age at the time of application;
  - 3) be the principal operator of the farming business for which the funds guaranteed by the SGP are contemplated to be used;
  - 4) be able to show, based upon his/her most recent Federal Income Tax Return and current data, that at least 50% of his/her annual gross income is derived from farming;
  - 5) have a debt to asset ratio of not less than 40% and not greater than 65%, unless the loan is a renewal of an existing guarantee;
  - 6) provide sufficient collateral to secure the State Guarantee and agree to keep the State Guarantee adequately collateralized in



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the future;  
 7) certify and agree that he/she will only use the State Guarantee to consolidate and restructure existing farming debts.  
 d) Limitations.

- 1) No State Guarantee shall exceed \$300,000 per farmer or farming operation. [20 ILCS 3605/12.1]
- 2) Each State Guarantee shall be set up on a payment schedule not to exceed 30 years, but shall be no longer than 10 years in duration. [20 ILCS 3605/12.1]
- 3) Only one State Guarantee shall be outstanding per farmer at any one time. [20 ILCS 3605/12.1]
- 4) Only one State Guarantee shall be outstanding at any one time made for any one farming operation. If applicants file separate Schedule F's for their Federal Income Tax Returns, then they will be considered to operate separate farming operations.

## e) Application Procedures and Review.

- 1) Lenders interested in the SGP must complete a Letter of Interest and return it to the Authority's office in Springfield, Illinois. After the Letter of Interest has been received by the Authority, the lender will be placed on the mailing list for the SGP.
- 2) The lenders shall apply (on forms approved and provided by the Authority) for State Guarantees to the Authority. The application shall, at a minimum, contain the farmer's name, address, present credit and financial information, including cash flow statements, financial statements, balance sheets, and any other information pertinent to the State Guarantee. [20 ILCS 3605/12.1]
- 3) After approval of the application and receipt of the documentation necessary prior to closing the loan, the Authority shall send a State Guarantee Closing Documents package to the lender containing all the appropriate forms and documents to execute. Upon completion of all such forms and documents by the applicant, lender and Authority, the State Guarantee loan will be considered closed.
- 4) The lender shall certify that all the information contained on the application and other submitted documents is correct, and shall be liable to the Authority for any damages suffered by any incorrect or untrue statement contained in any certified application.
- 5) The application period for the SGP shall commence immediately upon the determination that these Rules are properly filed with the office of the Secretary of State, and end when the Authority has issued State Guarantees equal to \$160,000,000 or at any later time as may be set from time to time by legislative extension.
- 6) Following submission of the Guarantee application by the lender, the Authority shall review the application. The Authority's review shall include, but will not be limited to, whether the applicant is an eligible farmer and whether the lender has

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complied with the requirements of subsection (f) of this Section. The Authority will base its evaluation on collateral, percentage of loan, debt to asset ratio, cash flow, etc.

- 7) When a State Guarantee application is submitted to the Authority, the Executive Director shall review the application to determine whether it is complete and whether it meets the criteria established by the Act and this Part:

- A) If the Executive Director determines that the loan application is incomplete, he or she shall, within fourteen (14) days of such determination, inform the lender and the applicant of such determination, and detail the information or material that is necessary to complete the application. For the purposes of subsection (j) of this Section, no application shall be deemed complete until the lender or applicant has provided the additional information or material requested by the Executive Director.
- B) When the Executive Director has completed his or her review of the Guarantee application, he or she shall present the application, with a statement of recommended action to the Board at its next regularly scheduled meeting. The Executive Director will base the review on collateral, percentage of loan, debt to asset ratio, cash flow, etc.
- 8) The Board shall review each loan application presented by the Executive Director in accordance with the provision of the Act and this Part, and the Board shall:
  - A) approve the application and provide the Guarantee, pursuant to the Act and this Part; or
  - B) deny the application and serve upon the lender and applicant a written statement of the grounds of the denial.
- 9) Each applicant shall pay a \$300 application fee which will be submitted to the lender at the time of the application. At the time the loan is made, the applicant may be required to pay a closing fee not greater than 3/4 of 1% of the State Guarantee which may be used to pay for administrative expenses incurred by the lender and the Authority. Of this 3/4 of 1% closing fee, the Authority shall receive 1/2% to cover administrative and legal expenses and the lender shall receive 1/4% to cover administrative expenses in completing the application packet and closing documents. The 3/4 of 1% closing fee may be included in the State Guarantee Loan amount. The Authority shall credit the \$300 application fee against the closing fee. The lender shall charge no fees or points in addition to those outlined herein. The applicant shall be responsible for paying any fees or charges involved in recording mortgages, releases, financing statements, insurance for secondary market issues and any similar fees necessary for closing and maintaining the State Guarantee or selling it into the secondary market. [20 ILCS 3605/12.1]
- 10) If the application is denied, the applicant and the lender may

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file a Request for Reconsideration stating reasons why the Board should withdraw its denial of the application and approve the State Guarantee. This Request for Reconsideration must be filed with the Authority not later than 21 days after such denial. The Request for Reconsideration should be accompanied by supporting documents and/or information not previously considered by the Board. The Board shall review the Request for Reconsideration at its next scheduled meeting, and shall either approve the application or deny the Request for Reconsideration. The applicant will have the opportunity to present new relevant facts on his previous denial to the Board, and if such facts will establish eligibility, the Request will be granted. A denial of a Request for Reconsideration shall be final. While a Request for Reconsideration is pending, the application shall be deemed complete for the purposes of subsection (j) of this Section.

f) Provision or Renewal of State Guarantees. The Authority shall provide or renew a State Guarantee to any lender if, in addition to meeting the other criteria described in the Act and this Part, the lender:

- 1) agrees to bring the farmer's debt to a current status at the time the State Guarantee is provided; [20 ILCS 3605/12.1]
- 2) Charges a fixed or adjustable interest rate which is below the market rate of interest generally available to the borrower. The market rate of interest is that rate which would be charged by the same lender for the same project without the State Guarantee. If both the lender and the applicant agree, the interest rate on the State Guarantee loan can be converted to a fixed interest rate at any time during the term of the loan; [20 ILCS 3605/12.1]
- 3) agrees to pay to the Authority an annual fee equal to 25 basis points on the loan and any other necessary and ordinary administrative expenses in excess of the 25 basis points as determined from time to time pursuant to the Act and this Part;
- 4) agrees to complete and certify that, to the best of the lender's knowledge, all information is true and correct on the application, balance sheets, security analysis, cash flow projection and any other documents that the Authority may request; [20 ILCS 3605/12.1]
- 5) identifies collateral acceptable to the Authority in accordance with subsection (h) that is at least equal to the State guarantee loan request; [20 ILCS 3605/12.1]
- 6) assumes all responsibility and costs for pursuing legal action on collecting any loan that is delinquent or in default subject to consulting the Authority; [20 ILCS 3605/12.1]
- 7) assumes responsibility for and agrees to absorb the first 15% loss of the outstanding principal of the note for which the State guarantee has been applied; [20 ILCS 3605/12.1]
- 8) assumes responsibility for proceeding with the collecting and disposing of collateral on the State Guarantee within 14 months of the date that the loan is declared delinquent; provided,

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however, that the lender shall not collect or dispose of collateral on the State Guarantee without the express written prior approval of the Authority. [20 ILCS 3605/12.1] Approval shall be granted if the collateral is disposed of in a reasonably commercial manner, based on the manner, time and place of the sale, the purchase price and the purchaser. In the event that the lender fails to dispose of the collateral within 14 months, the lender shall repay to the State interest on the State Guarantee at the same rate as the lender charges on the loan; provided, however, that the Authority shall extend the 14-month period for a lender in the case of bankruptcy or extenuating circumstances which prevent the lender from liquidating the collateral. The lender shall repay this interest to the State until the collateral for the State Guarantee has been liquidated and the State has been reimbursed. [20 ILCS 3605/12.1] If the lender fails to repay the State the interest as outlined herein, the Authority shall turn the matter over to the Attorney General's office for appropriate legal action;

- 9) agrees that the Authority has final approval on the sale of all collateral for the State Guarantee. After the sale of collateral, the State shall be reimbursed 85% of the remaining principal amount of the State Guarantee loan. If funds from the sale of collateral remain after this payment, the lender shall be reimbursed 15% of the remaining principal amount of the loan. If excess funds remain after paying the remaining principal to the State and lender, then the State and lender shall be repaid interest on a prorated basis; 85% of such excess funds shall be allocated to the State's portion and 15% shall be allocated to the lender's portion. If excess funds exist after repaying both the State and the lender, they shall be paid back to the farmer. [20 ILCS 3605/12.1]

## g) Annual Review.

- 1) The lender and the Authority shall each, on an annual basis, review State Guarantees for any purpose including, but not limited to, present collateral value; timeliness of payments made by the farmer or any other purposes reasonably calculated to aid in determining the farmer's present and projected repayment capacity. If the Authority determines that the existing collateral is insufficient to cover the State's liability, additional collateral may be required. If the applicant fails to pledge such additional collateral, the State Guarantee loan may be called. [20 ILCS 3605/12.1]
- 2) No State Guarantee shall be called by the lender or Authority during the first 3 years of the date on which the application is closed for any reason except defaults on payments or insufficient collateral. [20 ILCS 3605/12.1]
- 3) Except as otherwise provided in the Act or this Part, a State Guarantee may be called by the lender or Authority upon a 90-day



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written notice to all parties specifying the reasons for such call (e.g., submission of false documentation, changing loan documents, and change of state residency).

- 4) After the first 3 years of the SGP, or at any time for renewal loans, the lender may review and withdraw or continue with the SGP. If a lender undertakes such a review, it must provide all parties with written notification of its decision whether to withdraw or continue. Such notification must be provided on or before the date on which payment is due. [20 ILCS 3605/12.1]
- 5) The applicant must make all payments on the State Guarantee within 90 days of the stated payment date. Failure to make payments on or before their due date shall render the loan delinquent. Notice of this delinquency shall immediately be sent to all parties. If the loan remains delinquent for a period of 90 days, the total outstanding principal and interest shall become due and payable immediately on the entire State Guarantee Loan. The State Guarantee cannot be reinstated after the 90-day delinquency period.
- h) Valuation of Collateral. The value of collateral shall be determined by a qualified farmland appraiser. A qualified appraiser is one who is qualified by virtue of membership in the Illinois Society of Farm Managers and Appraisers, or one whose qualifications have been reviewed by the Authority. The Authority shall have final authority to determine whether the collateral is sufficient to cover the State's liability and may appoint an independent appraiser to aid in its determination on the sufficiency of collateral. The Authority will view real estate as the primary collateral on SGP loans, with machinery and equipment and breeding livestock to be used as secondary collateral, except where no real estate is available. Collateral value may be reviewed each year by the lender or an independent appraiser appointed by the Authority. The Authority may, among other things, take a mortgage or lien on land or other assets to cover the State's liability. Collateral may be transferred only upon written approval by the Authority and the lender.
- i) Fund. To implement and carry out the objectives of the SGP, the Fund has been created as a special Fund outside of the State Treasury.
  - 1) The Authority may request transfer of not more than \$45,000,000 to the Fund during the SGP, to secure State Guarantees issued pursuant to this Section. Any amount transferred from the Fund to the General Revenue Fund under powers granted to the Governor by Public Act 87-14 shall not be considered in determining if the maximum of \$45,000,000 has been transferred into the Fund. [20 ILCS 3605/12.1]
  - 2) In no event will the State be liable for more than \$45,000,000 to secure State Guarantees issued pursuant to this Section. [20 ILCS 3605/12.1]
  - 3) If a farmer defaults on a loan secured by a State Guarantee, after 90 days of delinquency the lender shall request payments on

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the loan to be made by the fund. The Authority shall direct a single payment equal to 85% of the remaining principal plus interest at the set rate from the date of delinquency until the date of payment by the Authority. [20 ILCS 3605/12.1] In no event shall the interest amount guaranteed by the Authority include interest accruing beyond 120 days from the date of default.

- 4) The Fund shall be reimbursed for any amount paid under this subsection (i) upon liquidation of collateral which the lender shall seize and convert to cash in a reasonably commercial manner. [20 ILCS 3605/12.1]
- j) Priority of Applications. Applications shall be processed by the Authority on a first come, first served basis, based upon the receipt of all completed documents by the Authority.
- k) Guarantors and Additional Collateral. An applicant for a State Guarantee Loan may have a guarantor co-sign the note and/or pledge additional collateral for the State Guarantee Loan if the lender and Authority determine that the applicant alone cannot provide sufficient collateral for the State Guarantee.
- l) The State Guarantee. In the event of default, the Authority shall make payment on the State Guarantee of 85% of the outstanding principal and interest owed on the State Guarantee Loan to the holder of the State Guarantee. The payment shall be made by the Authority to the holder of the State Guarantee within 30 days after an appropriate request by a lender certifying that the 90-day delinquency period has elapsed. The payment shall include 85% of past due interest and 85% of the remaining principal.
- m) Prepayment of Loans. Each loan shall be paid at least on an annual basis with one payment due each year on the date on which the loan was closed for a period of ten years or until the loan is repayed, whichever occurs first. The State Guarantee Loan may be prepaid in full or in part at any time the loan is outstanding without penalty.
- n) Assumption of Loans. No State Guarantee loan may be assumed by any entity unless specifically authorized by the Authority. Such authorization will be granted only in extraordinary cases (e.g., death or serious illness of the applicant with assumption by an immediate family member).
- o) Total Obligations through the SGP. The Authority shall have outstanding guarantees in an aggregate principal amount up to \$160,000,000 through the SGP. The Illinois Agriculture Loan Guarantee Fund shall be funded with \$45,000,000 to cover any losses.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1400.148 Rules and Guidelines Applicable to the Specialized Livestock Guarantee Farm-Debt-Relief Program



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- a) General Description of Program. The Specialized Livestock Guarantee Program (SLP) is designed to enhance opportunities for many Illinois farmers who want to position themselves for success in the changing livestock industry. This program targets specialized, family sized livestock operations, including swine and dairy and beef cattle operations. Loan funds may be used primarily for construction, purchase, and/or remodeling of facilities, and also for purchases of equipment and breeding livestock. The provisions of this Section are applicable only to the SLP.
- b) Definitions applicable to the SLP.

"Applicant" means a farmer whose application for a Specialized Livestock Guarantee has been submitted to the Authority by a lender.

"Asset" includes, but is not limited to, the following: crops or feed on hand; livestock held for sale; breeding stock; cash; marketable bonds and securities; securities not readily marketable; accounts receivable; notes receivable; cash invested in growing crops; net cash value of life insurance; machinery and equipment; cars and trucks; farm and other real estate including life estates and personal residence; value of beneficial interest in trusts; government payments or grants; capitalized leases; retirement accounts; and any other assets.

"Debt to Asset Ratio" means total outstanding liabilities, including any debt to be financed or refinanced under this Section, divided by total assets.

"Fund" means the Illinois Farmer and Agribusiness Loan Guarantee Fund, which is the State's fund to cover losses resulting from defaults on Specialized Livestock Guarantee loans.

"Liability" includes, but is not limited to, the following: accounts payable; notes or other indebtedness owed to any source; taxes; rent; amounts owed on real estate contracts or real estate mortgages; judgments accrued; interest payable; indebtedness under capitalized leases; and any other liability.

"SLP Loan" means an installment note for which the State of Illinois shall be liable for 83% of the total principal and interest as determined by the Authority.

- c) Eligible Farmers. To qualify for participation in the SLP, the applicant must:

1) be a resident of the State of Illinois. In the case of entities other than sole proprietorships, the owners of such entity must be Illinois residents.

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- 2) be the principal operator and/or materially involved in the operation.
- 3) have adequate cash flow and collateral.
- 4) certify to the Authority that, at the time the State Guarantee is provided, the borrower will not be delinquent in the repayment of any debt. [20 ILCS 3605/12.5]
- d) Limitations
- 1) SLP loans shall not exceed \$1,000,000 per applicant. An applicant may use this program more than once, provided the aggregated principal of SLP loans to that applicant does not exceed \$1,000,000. [20 ILCS 3605/12.5]
- 2) Each SLP loan shall be no longer than 15 years in duration. [20 ILCS 3605/12.5] The payment schedule for the loan will be tailored to the applicant's collateral and cash flow.
- 3) The SLP Loan can be fully or partially paid at any time while the loan is outstanding as long as the loan is held in the lender's portfolio and not sold into a secondary market. SLP Loans may not be assumed.
- e) Application Procedures and Review.
- 1) Lenders shall apply for the State Guarantees on forms provided by the Authority and certify that the application and any other documents submitted are true and correct. The application shall, at a minimum, contain the farmer's name, address, present credit and financial information, including cash flow statements, financial statements, balance sheets, and any other information pertinent to the application, and the collateral to be used to secure the State Guarantee. [20 ILCS 3605/12.5] Applications shall be processed by the Authority on a first come, first served basis, based upon the receipt of all completed documents by the Authority.
- 2) Each applicant shall pay a \$300 application fee which will be submitted to the Authority at the time of the application. At the time the loan is closed, the applicant will be required to pay a closing fee of 1% of the SLP loan amount less the \$300 application fee. Of this 1% closing fee, the Authority shall receive 3/4% and the lender shall receive 1/4% to cover administrative expenses in completing the application packet and closing documents. The 1% closing fee may be included in the State Guarantee loan amount. The lender shall charge no fees or points in addition to those outlined herein. The applicant shall be responsible for paying any fee or charge involved in recording mortgages, releases, financing statements, insurance for secondary market issues, and any other similar fee or charge that the Authority may require. [20 ILCS 3605/12.5]
- 3) The Lender must agree to charge a fixed or adjustable interest rate that the Authority determines to be below the market rate of interest generally available to the borrower. If both the lender and applicant agree, the interest rate on the State guaranteed

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- loan can be converted to a fixed interest rate at any time during the term of the loan. [20 ILCS 3605/12.5]
- 4) When a State Guarantee application is submitted to the Authority, the Authority shall review the application to determine whether it is complete and whether it meets the criteria established by the Act and this Section. When the Authority has completed the review of the Guarantee application, the application shall be presented, along with a statement of recommended action, to the Board for review at its next regularly scheduled meeting. The review shall include whether the applicant and lender are in compliance with the requirements of the program. The review shall also include an evaluation of collateral, percentage of loan, debt to asset ratio, cash flow, etc.
- 5) The Board shall approve the application and provide the Guarantee, pursuant to the Act and this Section; or, deny the application and serve upon the lender and applicant a written statement of the grounds for the denial.
- 6) If the application is denied, the applicant and the lender may request reconsideration stating reasons why the Board should withdraw its denial of the application and approve the State Guarantee. The request should be accompanied by supporting documents and/or information not previously considered by the Board. The Board shall review the request at its next scheduled meeting, and shall either approve or deny the application. A denial of a request for reconsideration shall be final.
- 7) Upon approval of an application and receipt of the documentation necessary to prepare loan closing documents, an SLP Loan Closing Documents package, which contains all the appropriate forms and documents to execute, shall be prepared by the Authority and sent to the lender. Upon completion of all such forms and documents by the applicant, lender and Authority and after satisfaction of all loan closing requirements, the SLP Loan guarantee will be considered in force.
- f) Provision of Renewal of State Guarantees. The Authority shall provide or renew a State Guarantee to any Lender if:
- 1) the Lender pays a fee equal to 25 basis points on the loan to the Authority on an annual basis [20 ILCS 3605/12.5];
  - 2) the applicant provides collateral acceptable to the Authority that is at least equal to the State Guarantee [20 ILCS 3605/12.5];
  - 3) The Lender must certify that, to the best of the Lender's knowledge, all information is true and correct on the application, balance sheets, security analysis, cash flow projection and any other documents submitted;
  - 4) the Lender assumes all responsibility and costs for pursuing legal action on collecting any loan that is delinquent or in default [20 ILCS 3605/12.5];
  - 5) the Lender is at risk for the first 15% of the outstanding

## ILLINOIS FARM DEVELOPMENT AUTHORITY

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- principal of the note for which the State Guarantee is provided [20 ILCS 3605/12.5];
- 6) The Lender must certify that, to the best of the Lender's knowledge, all information is true and correct on the application, balance sheets, security analysis, cash flow projection and any other documents submitted;
- 7) the Lender assumes responsibility for the timely collection and disposition of collateral on an SLP Loan that is in default; provided, however, that the Lender shall not collect or dispose of collateral on the SLP loan without the express written prior approval of the Authority. Approval shall be granted if the collateral is disposed of in a commercial manner, which nets an amount closely approximating the value of the collateral;
- 8) the Lender agrees that the Authority has final approval on the sale of all collateral for the SLP loan. After the sale of collateral, the State shall be reimbursed its 85% guaranteed portion of the principal balance at default. If funds from the sale of collateral remain after this payment, the Lender shall be reimbursed its 15% of the principal balance at default. If excess funds remain after paying the principal to the State and Lender, then the State and Lender shall be repaid interest on a prorated basis; 85% of such excess funds shall be allocated to the State's portion and 15% shall be allocated to the Lender's portion.
- 9) The SLP Loan shall be reviewed annually by the Lender and IFDA for adequacy of collateral and performance by the applicant. The applicant is required to provide the Lender with a current financial statement annually.
- 1) If it is determined that there is not sufficient collateral to adequately secure the SLP Loan, additional collateral may be required. If the applicant is unwilling or unable to pledge additional collateral, the SLP Loan may be called due and payable.
  - 2) If an SLP Loan is going to be called for any reason, written notice which specifies the reasons for said action must be served to all parties (IFDA, Lender, and borrower) not less than 90 days prior to call of the loan.
  - 3) Failure of the applicant to make any payment on or before its due date shall render the loan delinquent. Notice of this delinquency shall immediately be sent to all parties. If the loan remains delinquent for a period of 90 days, the total outstanding principal and interest shall become due and payable immediately on the entire SLP Loan. The SLP Loan cannot be reinstated after the 90-day delinquency period.
  - h) In the event of default that is not cured within 90 days or in the event a loan is called for any reason, the Authority shall make payment of the guaranteed portion of the SLP Loan to the holder of the guarantee. This payment shall be equal to the sum of:



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- 1) 85% of the principal balance as of the date of default or date of call less any proceeds received from sales of collateral;
  - 2) 85% of the interest balance as of the date of default or call; and
  - 3) 85% of the interest accrued from the date of default or call until the date payment is made, up to a maximum of 120 days.
- The Illinois Farmer and Agribusiness Loan Guarantee Fund shall be used to secure State guarantees on SLP Loans. [20 ILCS 3605/12.5]*
- 1) The Authority shall guarantee up to \$35,000,000 in loans through the SLP, YFG and SGPAI. The Illinois Farmer and Agribusiness Loan Guarantee Fund shall be funded with \$10,000,000 to cover any losses under these programs.
  - 2) The Authority shall direct payments from this fund to guarantee holders as described in subsection (h) above.
  - 3) Monies returned to the State on the disposition of collateral as described in subsection (f) above shall be deposited to this fund.
- a) *General Description of Program*---The Farm Debt Relief Program ("PDRP") is designed to assist eligible farmers in repaying their farming related debts.
- b) *Definitions Applicable to the PDRP*---only.
- "Applicant" means a person whose application for participation in the PDRP has been submitted to the Authority.
- "Assets" include cash, crops or feed on hand, livestock held for sale, breeding stock, marketable bonds and securities, securities not readily marketable, accounts receivable, notes receivable, cash invested in growing crops, net cash value of life insurance, machinery and equipment, cars and trucks, farm and other real estate including life estates and personal residences, value of beneficial interests in trusts, government payments or grants, and any other assets.
- "Debts" include existing accounts payable, notes or other indebtedness owed to any source, taxes, rent, amounts owed on other real estate contracts or real estate mortgages, judgments, accrued interest payable, and any other liability.
- "Farm" means a special fund established in the State treasury from which grants under this Part are made and to which repayments of such grants are made.
- "Farm-Related Debts" means any debts arising from the operation of a farm, ranch or other business which produces agricultural commodities.
- "Grant" means any amount of money whether or not to be repaid made to any creditor on behalf of an applicant under the PDRP.
- c) *Eligible Farmers*---to qualify for participation in the PDRP each farmer must:

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- 1) be at least eighteen (18) years of age at the time of application;
  - 2) maintain his or her principal residence in the State;
  - 3) be the principal operator of a farming operation in the State;
  - 4) be actively engaged in farming in this State at the time of application;
  - 5) demonstrate that he or she has farming-related debts in an amount of at least equal to 55% of his or her total assets at the time of application;
  - 6) certify in the application that he or she can secure credit from a lender for the 1986 crop year.
- d) *Limitations*---
- 1) No grant under the PDRP shall exceed 2% of the applicant's outstanding farming-related debt or two thousand dollars (\$2,000.00) whichever is less.
  - 2) Only one grant shall be made for any one person, household or farming operation. If applicants file separate Schedule P's for their Federal Income Tax Returns then they will be considered to operate separate farming operations.
  - 3) Grants under the PDRP can be used only to repay debt existing at the time of application.
- e) *Application Procedures and Review*---
- 1) Applicants shall apply directly to the Authority on forms provided by the Authority. Applicants shall also provide a \$75.00 application fee and financial statements for the current year and the three years prior.
  - 2) When an application is submitted to the Authority, the Executive Director shall review the application to determine whether it is complete and whether it meets the criteria established by the Act and this Part.
- A) If the Executive Director determines that the application is incomplete in any way or that it fails to meet the criteria established by the Act and this Part, he or she shall, within fourteen (14) days of such determination, inform the applicant of such determination and detail the information or material needed to complete the application. No application shall be deemed complete until the applicant has provided the additional information requested by the Executive Director.
- B) When the Executive Director has completed his or her review of the application, he or she shall present the application with a statement of recommended action to the Board at its next regularly scheduled meeting.
- 3) The Board shall review each application presented by the Executive Director in accordance with the provisions of the Act and this Part, and the Board shall:
- A) determine that the applicant is eligible for a grant under the PDRP and approve a payment to such applicant according



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- to the provisions of the Act and this Part, or
- B) deny the application and provide the grounds of denial.
- 4) If the application is denied, the applicant may file a Request for Reconsideration stating reasons why the Board should withdraw its denial of the application. This Request for Reconsideration should be accompanied by supporting documents and/or information not previously considered by the Board. The Board shall review the Request for Reconsideration at its next scheduled meeting and shall either approve the application or deny the Request for Reconsideration. A denial of a Request for Reconsideration shall be final. While a Request for Reconsideration is pending, the application that is the subject of the Request shall be deemed complete.
- 5) If the application is approved, the Board shall determine the amount of the grant to which the applicant is entitled.
- f) Payment Procedures: Within thirty (30) days from the date on which an application is approved and the amount of the grant is determined, the Board shall make a payment or payments of the entire amount of the grant. Such payment shall be made directly to one or more of the applicant's farming related creditors and shall be applied toward the reduction of the applicant's farming related debt.
- g) Choice of Creditors: The applicant may select the creditor or creditors to receive the payment. In the event that the applicant elects to apportion the payment between more than one creditor, he or she shall determine the amount of payment to be made to each such creditor and shall provide the Authority with a written statement of the desired apportionment. In the event that the applicant is subject to the jurisdiction of a bankruptcy court at the time of approval of the application, the bankruptcy court shall select the creditor or creditors to be paid.
- h) Repayment of Grants.
- i) Qualifying applicants with farming related debts equal to an amount in excess of 70% of their total assets at the time of application shall not be required to repay any payments provided for under this Part. All other qualifying applicants shall repay all payments provided for under this Part.
- 2) Repayment shall be made directly to the Authority in the form of personal or certified checks made payable to the Farm Emergency Assistance Fund.
- 3) No interest shall be charged on the principal amount of the grant.
- 4) Qualifying applicants not otherwise excused from repayment shall repay the entire principal amount of the payments made on their behalf pursuant to this Part by making five (5) equal annual payments. The aggregate amount of which shall equal the amount of the grant. The first of such payments shall be due one year from the date on which the grant was made and each subsequent payment

## ILLINOIS FARM DEVELOPMENT AUTHORITY

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- is due annually on this date.
- 5) In the event that any applicant fails to make any annual payment, the Authority shall notify the applicant in writing of such delinquency. If all delinquent payments are not made within thirty (30) days of such notification, the outstanding balance of the grant shall immediately become due and payable in full. Notice that the entire balance is immediately due shall be sent to the defaulting applicant.
- i) Legal Remedies: If the defaulting applicant fails to make full payment of the outstanding balance of the grant within thirty (30) days of the date that notification of the acceleration of payment was sent, the Authority may exercise all its rights under the laws of this State to secure such repayment. The expenses of such collection, including reasonable attorney fees, shall be paid by the defaulting applicant.
- j) Prepayment: The applicant may prepay the grant in full or part at any time without a penalty. Any prepayment may shorten the duration of the annual payments, but shall not excuse the failure to make an annual payment at any time that any part of the grant is outstanding.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Illinois Swimming Pool and Bathing Beach Code

2) Code Citation: 77 Ill. Adm. Code 820

3) Section Numbers: Proposed Action:

820.10 Amended

820.250 Amended

820.400 New

820.500 Renumbered, Amended

4) Statutory Authority: Implementing and authorized by Section 13 of the Swimming Pool and Bathing Beach Act [210 ILCS 125/13].

5) A Complete Description of the Subjects and Issues Involved: This rulemaking provides a mechanism for not-for-profit homeowner's associations that own and operate a beach that serves 50 or fewer swimmers per day to request a waiver from the Department's requirements for toilets and a first aid kit. The rulemaking specifies the conditions that must be met before a waiver will be granted. Beaches that have been closed due to unsatisfactory water quality would not be eligible for a waiver for the current swimming season or the subsequent season, unless the Department or a local health department determines that the cause of the unsatisfactory water quality was not an absence of toilet facilities at the beach. A reference in Section 820.250 to the water quality standards of Section 820.500 is updated to reflect the renumbering of Section 820.500 to 820.400. Additionally, definitions of "homeowner's association" and "infant" are added.

6) Will this rulemaking replace any emergency rulemaking currently in effect?  
Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed rulemaking does not require any new or additional expenditures on the part of units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois Register* to:

Gail M. DeVito

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

Division of Governmental Affairs  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
(217)782-6187

These rules may have an impact on small businesses, small municipalities and not-for-profit corporations. Small businesses, small municipalities and not-for-profit corporations commenting on these rules should indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Bathing beaches operated by homeowner's associations.

B) Reporting, bookkeeping or other procedures required for compliance: The rulemaking specifies information to be submitted to the Department when a waiver of Section 820.400(d)(2) or (g)(2) is being requested.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The Department must adopt these rules as emergency rules to provide immediate relief to homeowner's associations regulated by the Department's existing Code.

The full text of the Proposed Amendment is identical to the Emergency Amendments that appear in this issue of the *Illinois Register* on page:

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## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 130

3) Section Numbers:  
130.2005 Proposed Action:  
Amendment

4) Statutory Authority: 20 ILCS 2505/39b19

5) A Complete Description of the Subjects and Issues Involved: Amends the Retailers' Occupation Tax by providing that for purposes of the occasional dinners and similar activities exemption, "occasional" means not more than twice in any calendar year (currently "any given one year period"). Provides that where more than two events are held in any calendar year, the organization or institution may select which two events held within that year will be considered exempt. Once the organization or institution has made the selections, the selections cannot be changed. All other events in that year will be considered taxable. Also provides that charitable or religious organizations incur Retailers' Occupation Tax liability on their receipts from sales of meals to the public unless such selling constitutes an occasional dinner or other similar activity, as authorized in the regulation.

6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State Mandate, not does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Gina Roccaforte  
Associate Counsel  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
Phone: (217) 782-6996

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Charitable and religious organizations

B) Reporting, bookkeeping or other procedures required for compliance:  
Minimal

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1997

The full text of the Proposed Amendment begins on the next page:



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NOTICE OF PROPOSED AMENDMENT

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TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE

Transportation and Delivery Charges  
Finance or Interest Charges--Penalties--Discounts  
Traded-In Property

PART 130

RETAILERS' OCCUPATION TAX

Deposit or Prepayment on Purchase Price  
State and Local Taxes Other Than Retailers' Occupation Tax  
Penalties

SUBPART A: NATURE OF TAX

Federal Taxes  
Installation, Alteration and Special Service Charges  
Motor Vehicle Leasing and Trade-In Allowances

Section  
130.101 Character and Rate of Tax  
130.105 Responsibility of Trustees, Receivers, Executors or Administrators  
130.110 Occasional Sales  
130.111 Sale of Used Motor Vehicles by Leasing or Rental Business  
130.115 Habitual Sales  
130.120 Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section  
130.201 The Test of a Sale at Retail  
130.205 Sales for Transfer Incident to Service  
130.210 Sales of Tangible Personal Property to Purchasers for Resale  
130.215 Further Illustrations  
130.220 Sales to Lessors of Tangible Personal Property

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section  
130.305 Farm Machinery and Equipment  
130.310 Food, Drugs, Medicines and Medical Appliances  
130.315 Fuel Sold for Use in Vessels on Rivers Bordering Illinois  
130.320 Gasohol  
130.321 Fuel Used by Air Common Carriers in International Flights  
130.325 Graphic Arts Machinery and Equipment Exemption  
130.330 Manufacturing Machinery and Equipment  
130.335 Pollution Control Facilities  
130.340 Rolling Stock  
130.345 Oil Field Exploration, Drilling and Production Equipment  
130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

SUBPART D: GROSS RECEIPTS

Section  
130.401 Meaning of Gross Receipts  
130.405 How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser  
130.410 Cost of Doing Business Not Deductible

SUBPART E: RETURNS

Monthly Tax Returns--When Due--Contents  
Quarterly Tax Returns  
Returns and How to Prepare  
Annual Tax Returns  
First Return  
Final Returns When Business is Discontinued  
Who May Sign Returns  
Returns Covering More Than One Location Under Same Registration--Separate Returns for Separately Registered Locations  
Payment of the Tax, Including Quarterly Payments in Certain Instances  
Returns on a Transaction by Transaction Basis  
Registrants Must File a Return for Every Return Period  
Filing of Returns for Retailers by Suppliers Under Certain Circumstances

SUBPART F: INTERSTATE COMMERCE

Prepayment of Retailers' Occupation Tax on Motor Fuel  
Vending Machine Information Returns  
Verification of Returns  
Preliminary Comments  
Sales of Property Originating in Illinois  
Sales of Property Originating in Other States

SUBPART G: CERTIFICATE OF REGISTRATION

General Information on Obtaining a Certificate of Registration  
Procedure in Disputed Cases Involving Financial Responsibility Requirements  
Procedure When Security Must be Forfeited  
Sub-Certificates of Registration  
Separate Registrations for Different Places of Business of Same

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Taxpayer Under Some Circumstances

130.725 Display  
130.730 Replacement of Certificate  
130.735 Certificate Not Transferable  
130.740 Certificate Required For Mobile Vending Units  
130.745 Revocation of Certificate

## SUBPART H: BOOKS AND RECORDS

## Section

130.801 General Requirements  
130.805 What Records Constitute Minimum Requirement  
130.810 Records Required to Support Deductions  
130.815 Preservation and Retention of Records  
130.820 Preservation of Books During Pendency of Assessment Proceedings  
130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

## SUBPART I: PENALTIES AND INTEREST

## Section

130.901 Civil Penalties  
130.905 Interest  
130.910 Criminal Penalties

## SUBPART J: BINDING OPINIONS

## Section

130.1001 When Opinions from the Department are Binding

## SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

## Section

130.1101 Definition of Federal Area  
130.1105 When Deliveries on Federal Areas Are Taxable  
130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

## SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

## Section

130.1201 General Information  
130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

## SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

## Section

130.1301 When Lessee of Premises Must File Return for Leased Department

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130.1305 When Lessor of Premises Should File Return for Leased Department  
130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

## SUBPART N: SALES FOR RESALE

## Section

130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale  
130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale  
130.1410 Requirements for Certificates of Resale (Repealed)  
130.1415 Resale Number--When Required and How Obtained  
130.1420 Blanket Certificate of Resale (Repealed)

## SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

## Section

130.1501 Claims for Credit--Limitations--Procedure  
130.1505 Disposition of Credit Memoranda by Holders Thereof  
130.1510 Refunds  
130.1515 Interest

## SUBPART P: PROCEDURE TO BE FOLLOWED UPON SELLING OUT OR DISCONTINUING BUSINESS

## Section

130.1601 When Returns are Required After a Business is Discontinued  
130.1605 When Returns Are Not Required After Discontinuation of a Business  
130.1610 Cross Reference to Bulk Sales Regulation

## SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

## Section

130.1701 Bulk Sales: Notices of Sales of Business Assets

## SUBPART R: POWER OF ATTORNEY

## Section

130.1801 When Powers of Attorney May be Given  
130.1805 Filing of Power of Attorney With Department  
130.1810 Filing of Papers by Agent Under Power of Attorney

## SUBPART S: SPECIFIC APPLICATIONS

## Section

130.1901 Addition Agents to Plating Baths  
130.1905 Agricultural Producers  
130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage

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130.1915 Stamps and Like Articles  
 130.1920 Auctioneers and Agents  
 130.1925 Barbers and Beauty Shop Operators  
 130.1930 Blacksmiths  
 130.1930 Chiropodists, Osteopaths and Chiropractors  
 130.1935 Computer Software  
 130.1940 Construction Contractors and Real Estate Developers  
 130.1945 Co-operative Associations  
 130.1950 Dentists  
 130.1951 Enterprize Zones  
 130.1952 Sales of Building Materials to a High Impact Business  
 130.1955 Farm Chemicals  
 130.1960 Finance Companies and Other Lending Agencies - Installment Contracts  
 - Repossessions  
 130.1965 Florists and Nurserymen  
 130.1970 Hatcheries  
 130.1975 Operators of Games of Chance and Their Suppliers  
 130.1980 Optometrists and Opticians  
 130.1985 Pawnbrokers  
 130.1990 Peddlers, Hawkers and Itinerant Vendors  
 130.1995 Personalizing Tangible Personal Property  
 130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers  
 130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons  
 130.2006 Sales by Teacher-Sponsored Student Organizations  
 130.2007 Exemption Identification Numbers  
 130.2008 Sales by Nonprofit Service Enterprises  
 130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to Others  
 130.2015 Persons Who Repair or Otherwise Service Tangible Personal Property  
 130.2020 Physicians and Surgeons  
 130.2025 Picture-Framers  
 130.2030 Public Amusement Places  
 130.2035 Registered Pharmacists and Druggists  
 130.2040 Retailers of Clothing  
 130.2045 Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like  
 130.2050 Sales and Gifts By Employers to Employees  
 130.2055 Sales by Governmental Bodies  
 130.2060 Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products  
 130.2065 Sales of Automobiles for Use in Demonstration  
 130.2070 Sales of Containers, Wrapping and Packing Materials and Related Products  
 130.2075 Sales To Construction Contractors, Real Estate Developers and Speculative Builders  
 130.2080 Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel

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130.2085 Sales to or by Banks, Savings and Loan Associations and Credit Unions  
 130.2090 Sales to Railroad Companies  
 130.2095 Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles  
 130.2100 Sellers of Feeds and Breeding Livestock  
 130.2105 Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records and Their Suppliers  
 130.2110 Sellers of Seeds and Fertilizer  
 130.2115 Sellers of Machinery, Tools and the Like  
 130.2120 Suppliers of Persons Engaged in Service Occupations and Professions  
 130.2125 Trading Stamps and Discount Coupons  
 130.2130 Undertakers and Funeral Directors  
 130.2135 Vending Machines  
 130.2140 Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items Made to Order  
 130.2145 Vendors of Meals  
 130.2150 Vendors of Memorial Stones and Monuments  
 130.2155 Vendors of Signs  
 130.2156 Vendors of Steam  
 130.2160 Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.  
 130.2165 Veterinarians  
 130.2170 Warehousemen  
 ILLUSTRATION A: Examples of Tax Exemption Cards  
 AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 39b3 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b3].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11



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Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5552, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART S: SPECIFIC APPLICATIONS

## Section 130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons

- a) Sales by Nonprofit Service Organizations  
Effective August 1, 1961, nonprofit country clubs, boat clubs, employees' clubs or organizations and other nonprofit social, athletic or recreational organizations, lodges, patriotic organizations, fraternities, sororities, professional and trade associations, civic organizations, labor unions and other nonprofit persons who are not exclusively charitable, religious or educational organizations are liable for Retailers' Occupation Tax when selling tangible personal property at retail to members, guests or others. The same is true of exclusively charitable, religious or educational organizations and institutions with certain limited exceptions.

## 1) Scope of the Exemption

- A) There still are some very limited exemptions from the Retailers' Occupation Tax for sales by exclusively

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charitable, religious and educational organizations and institutions. However, the exemption is not available unless the selling organization or institution does qualify as an "exclusively" charitable, religious or educational organization or institution.

- B) It is not enough simply to be a nonprofit organization or institution. In case of doubt concerning any such seller's Retailers' Occupation Tax status, apply to the Department of Revenue for a letter ruling, submitting copies of the Charter or Constitution and By-laws and other relevant information for this purpose.

- C) The exemption that is available under some circumstances for sales by exclusively charitable, religious or educational organizations or institutions is not available in any situation, for example, to sales by such other kinds of nonprofit organizations as civic clubs, nonprofit social and recreational organizations, patriotic organizations, lodges and their auxiliaries, trade associations, etc. Even though the latter types of organizations do much good charitable work, they are not "exclusively" charitable organizations under Illinois Supreme Court decisions, so any retail selling which they do would be subject to the Retailers' Occupation Tax.

- D) Some of the kinds of organizations which qualify as exclusively charitable organizations are Parent-Teacher organizations, the American National Red Cross, Community Fund or United Fund organizations, the Y.M.C.A., the Y.W.C.A., Boy Scout organizations and Girl Scout organizations.

- E) Exclusively charitable, religious and educational organizations incur Retailers' Occupation Tax liability when they engage in selling tangible personal property at retail except in three situations.

## 2) Sales to Members, Etc.

- A) The first exception is that the sales by such an organization are not taxable if they are made to the organization's members, or to its students in the case of a school or to its patients in the case of a nonprofit hospital which qualifies as a charitable institution, primarily for the purposes of the selling organization.

- B) Examples of sales that come under this exemption are sales of uniforms, insignia and Scouting equipment by Scout organizations to their members; sales of Bibles by a church to its members, and sales of choir robes by a church to the members of the church's choirs. The selling organization would incur Retailers' Occupation Tax liability if it should engage in selling any of the foregoing items at retail to the public.

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C) The selling of school books and school supplies by schools at retail to students shall not be deemed to be "primarily for the purpose of" the school which does such selling. Consequently, schools incur Retailers' Occupation Tax liability when they engage in selling school books or school supplies at retail to their students or to others.

## 3) Noncompetitive Sales

A) The second exception is that sales by exclusively charitable, religious or educational organizations are not subject to the Retailers' Occupation Tax when it can be said that such selling is noncompetitive with business establishments.

B) The Attorney General has laid down the following tests for determining that such selling is noncompetitive:

- i) The transactions are conducted by members of the charitable entity and not by any franchisee or licensee.
- ii) All of the proceeds must go to the charity.
- iii) The transaction must not be a continuing one but rather should be held either annually or a reasonably small number of times within a year. The test of reasonableness would be an administrative decision, to be made by the Department of Revenue.

iv) The reasonably ascertainable dominant motive of most transferees of the items sold must be the making of a charitable contribution, with the transfer of property being merely incidental and secondary to the dominant purpose of making a gift to the charity.

C) In addition, the Attorney General has stated that there are these further considerations for the purpose of furnishing some guides to the resolution of questions raised by each individual situation:

- i) The nature of the particular item sold. All other things being equal, the decision as to candy might well be different from the decision as to refrigerators.
  - ii) The character of the particular sale, and the real practical effect upon punitive competition.
- D) Under this second exception, examples of exempt sales are infrequent sales of cookies, doughnuts, candy, calendars or Christmas trees by Scout organizations or by other exclusively charitable organizations or by exclusively religious organizations. In this category, the Attorney General's opinion stresses that the sale must be infrequent, and that the dominant motive of the purchase must be the making of a donation to the charitable or religious organization which conducts the sale, rather than the acquisition of property.

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E) Even if the sale to the public occurs only once a year, the charitable or religious organization which conducts the sale would incur Retailers' Occupation Tax liability if it sells hats, greeting cards or other items for which the dominant motive of the purchase is the acquisition of the property rather than the exchanging of the property merely as a token for the making of a donation.

## 4) Occasional Dinners and Similar Activities

A) The third exception is that occasional dinners, socials or other similar activities which are conducted by exclusively charitable, religious or educational organizations or institutions are not taxable, whether or not such activities are open to the public. This exemption extends to occasional dinners, ice cream socials, fun fairs, carnivals, rummage sales, bazaars, bake sales and the like, when conducted by exclusively charitable, religious or educational organizations or institutions, whether the items that are sold are purchased or donated for the purposes of the sale, and even if the sale is open to the public.

B) For the purposes of this exemption, "occasional" means not more than twice in any calendar year given one-year-period. Where more than two events are held in any calendar year, the organization or institution may select which two events held within that year will be considered exempt. Once the organization or institution has made the selections, the selections cannot be changed. All other events in that year will be considered taxable.

C) This exemption does not extend to "occasional" sales, by exclusively charitable, religious or educational organizations or institutions, of hats, greeting cards, cookbooks, flag kits and other similar items because these are not "occasional dinners, socials or similar activities" within the meaning of the Act, and the selling of these kinds of items at retail even on an occasional basis does generally place the selling organization in substantial competition with business establishments.

b) Rules Governing Some Special Kinds of Selling by Exclusively Charitable and Religious Organizations

## 1) Hospital Sales

A) Nonprofit hospitals which qualify as exclusively charitable institutions are not taxable when selling food or medicine to their patients in connection with the furnishing of hospital service to them, nor on the operation of restaurant facilities which are conducted primarily for the benefit of the hospital's employees, and which are not open to the public. However, sales made in a hospital cafeteria which is open to the public will be taxable sales.

B) In the case of hospitals which qualify as charitable

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institutions, such hospitals are not taxable when selling drugs to anyone because this is for the relief of the sick (which is the hospital's primary purpose) and so is "primarily for the purpose of" such hospitals, thus qualifying such transactions for tax exemption. However, a hospital or hospital auxiliary incurs Retailers' Occupation Tax liability when selling candy, chewing gum, tobacco products, razor blades and the like at retail even when such items are sold only to patients because (unlike food and medicine) these items are not necessary to the furnishing of hospital service, and they are competitive.

C) The same distinctions apply to nonprofit sanitarium and nonprofit nursing homes when they qualify as exclusively charitable institutions.

## 2) Gift Shops and Rummage Stores

Charitable or religious organizations incur Retailers' Occupation Tax liability on the retail selling which they do in the course of operating gift shops and rummage stores.

## 3) Meals

A) Charitable or religious organizations incur Retailers' Occupation Tax liability on their receipts from sales of meals to the public unless such selling constitutes an occasional dinner or other similar activity, as authorized in subsection (a)(4)(B), above. No more than two such occasional dinners or other similar activities are authorized in any calendar year ~~is--done--only--occasionally~~ ~~not more than twice in any given period of one year~~. Such ~~in-the-latter-case--such~~ sales are tax exempt, provided that all the profits from such sales are used for charitable or religious purposes. If such sales occur more than twice in any calendar year, refer to subsection (a)(4)(B), above.

B) Also, a church or religious organization does not incur Retailers' Occupation Tax liability on its receipts from sales of meals where the following conditions are met:

- i) The profits, if any, are used for religious purposes;
- ii) the meals are confined to the members of such church and their guests and are not open to the public; and
- iii) the serving of the meals is connected with some religious service or function.

C) Under the circumstances just described, even if this type of selling of meals is done rather frequently, it is exempt from the Retailers' Occupation Tax because of being in the category of sales to members "primarily for the purposes of" the religious organization (the seller).

## 4) Special Problems Concerning Sales by Schools

## A) Dining Facilities

A school does not incur Retailers' Occupation Tax liability on its operation of a cafeteria or other dining facility

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which is conducted on the school's premises, and which confines its selling to the students and employees of the school. In any instance in which the dining facility is opened up for the use of other persons, all sales that are made at such facility while that condition continues to prevail are taxable.

## B) Meaning of "Student"

For the purpose of the exemptions under discussion, a "student" is a person who is taking a course from the school for credit.

## C) School Books and School Supplies

i) A school incurs Retailers' Occupation Tax liability when selling school books and school supplies to its students or others, for use.

ii) Schools are not taxable on their sales of school annuals because these are noncompetitive items.

## D) Clothing and Dormitory Supplies

Schools incur Retailers' Occupation Tax liability when they sell sweaters, sweat shirts, gym shoes, jackets and other items of clothing to students or others for use. The same is true when a school sells furniture, rugs or other dormitory supplies to users.

## E) Miscellaneous Items

A school or school organization incurs Retailers' Occupation Tax liability when it sells soft drinks, candy, peanuts, popcorn, chewing gum and the like to students or to members of the public for use or consumption, where these items are sold at a school book store, through vending machines or otherwise than in a restricted school cafeteria as a part of the selection which the student has in buying meals in such cafeteria. However, the proceeds from the sale of tangible personal property by teacher-sponsored student organizations affiliated with an elementary or secondary school located in Illinois are exempt from Retailers' Occupation Tax. (See Section 2-5(6) of the Act and 86 Ill. Adm. Code 130.2006.)

## c) Registration and Returns

1) Nonprofit organizations which incur Retailers' Occupation Tax liability as retail sellers of tangible personal property are required to register with the Department and file periodic returns. Returns are due monthly, except that if the taxpayer's average monthly liability to the Department is \$50.00 or less, the taxpayer may apply to the Department for permission to file one return each year covering the calendar year, with the return being due by January 31 of the following year. Whenever tax is due for a return period, the remittance for the tax should accompany the return which discloses such tax to be due.

2) For more information concerning the filing of returns with the Department, see Subpart E of this Part.



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- 3) Registration and return forms may be obtained from the Department on request.
- 4) In the case of a church, it is recommended that a single Certificate of Registration be applied for by the church and that this be allowed to cover the selling activities of that church and all of its organizations. Registration must be obtained prior to the commencement of selling activities. (See Section 2a of the Act.)
- 5) In the case of public schools or school organizations which incur some Retailers' Occupation Tax liability so as to be required to register with the Department of Revenue, the Board of Education which governs the school district (rather than each individual school or school organization) should apply to the Department for a Certificate of Registration, and such Board of Education should file a single return for the return period covering all the taxable school activities that occur under its jurisdiction during the return period covered by the return.

## d) Suppliers of Nonprofit Institutions, Associations and Organizations

- 1) Suppliers of nonprofit institutions, associations and organizations do not incur Retailers' Occupation Tax liability when they sell tangible personal property to any such purchaser for resale in any form as tangible personal property.
- 2) Suppliers of such purchasers incur Retailers' Occupation Tax liability when they sell tangible personal property to any such purchaser at retail (i.e., for use or consumption by the purchaser or to be given away by the purchaser, and not for resale in any form as tangible personal property), provided that the tax does not apply to receipts received by the seller from sales of any kind made to any purchaser of this character who is able to qualify as a corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older.
- 3) Many difficult questions of interpretation will arise in applying the above proviso. Each case will have to be decided on its own facts, but a few principles based on Supreme Court decisions in somewhat analogous cases are stated hereinbelow for guidance.

## e) Nonprofit Social, Recreational and Athletic Organizations -- Nonprofit Fraternal Organizations

- 1) A purchaser is not necessarily qualified for this total exemption as to receipts received by the seller from all sales made to such purchaser merely because of the fact that the purchaser is a not-for-profit service organization. For example, if the purchaser is incorporated or otherwise organized primarily to provide entertainment, social, recreational or athletic

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activities or facilities to its members, the purchaser is not organized and operated exclusively for charitable, religious or educational purposes. Such a purchaser is not organized and operated exclusively for charitable purposes even though it does some charitable work. This is true even though such purchaser is organized and operated as a not-for-profit corporation, association, etc.

- 2) The same is true of nonprofit fraternal benefit societies which derive their funds from their members and are organized primarily to provide different forms of insurance benefits to their members and to persons standing in designated relationships to their members, except when such fraternal benefit societies are organized under a statutory provision which expressly declares them to be exclusively charitable organizations.
- 3) Non profit fraternities and sororities are not considered to be organized and operated exclusively for charitable, religious or educational purposes.

## f) Lodges

- 1) Similarly, nonprofit corporations, societies, associations, etc., which have, as a substantial purpose, the providing of a lodge system with ritualistic work and social activities for members, and which derive their funds in large measure from such members, are not organized and operated exclusively for charitable, religious or educational purposes, even though they engage to some extent in one or more of these activities, because a substantial purpose for the existence of such an organization is one which does nothing to relieve the public of a duty to the persons benefited and otherwise bestows no benefit upon the public.

- 2) For example, the Supreme Court has held a Masonic Lodge not to be charitable and has held that a Masonic Home for aged and destitute Masons is charitable. The Department will follow that distinction in this Section when separate legal entities are involved, considering receipts from retail sales to the former to be taxable, and considering receipts received by the seller from retail sales made to the latter to be exempt. However, if the same legal entity operates the noncharitable lodge and the charitable home, the Department will not regard such entity (when making purchases) as coming within this exemption. This is true because the importance of the noncharitable lodge function makes it impossible to say that such a purchaser is organized and operated exclusively for charitable, religious or educational purposes.

- 9) Nonprofit Professional and Trade Associations -- Labor Unions -- Civic Clubs -- Patriotic Organizations  
Nonprofit Bar Associations, Medical Associations, Lions Clubs, Rotary Clubs, Chambers of Commerce and other professional, trade or business associations and labor unions, which draw their funds largely from

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their own members, and as to which an important purpose is to protect and advance the interests of their members in the business world, are not organized and operated exclusively for charitable or educational purposes, even though such organizations may engage in some charitable and educational work. The same conclusion applies to the American Legion, Veterans of Foreign Wars, Amvets, the Daughters of the American Revolution and other similar nonprofit patriotic organizations.

- h) Organization Must be Nonprofit to be Exclusively Charitable  
On the other hand, a purchaser cannot qualify as being organized and operated exclusively for charitable purposes unless it is organized and conducted on a not-for-profit basis, with no personal profit inuring to anyone as a result of the purchaser's operation. The payment of reasonable salaries to necessary employees for services actually rendered does not convert a nonprofit enterprise into a business enterprise.
- i) Other Conditions Necessary for Being Exclusively Charitable
  - 1) In the case of a corporation, there can be no capital structure nor capital stock, no provision for disbursing dividends or other profits and no payment of director's fees if the corporation seeks to qualify as an exclusively charitable corporation.
  - 2) The Supreme Court has stated that a charitable purpose may refer to almost anything which promotes the well-being of society and which is not forbidden by law; but to qualify as a charity, the purchaser must be organized and operated to benefit an indefinite number of the public. There may be restrictions on the group to be benefited (such as an organization for women, for children, for the aged, etc.), but the service rendered to those eligible for benefits must, nevertheless, in some way relieve the public of a duty which it would have to such beneficiaries or otherwise confer some benefit on the public.
- j) Determination of Purpose for Which Organization or Institution is "Organized and Operated"
  - 1) In the case of a corporation, the purpose for which it is "organized" will be determined by reference to its Charter. For example, it has been held by the Supreme Court that an Elks Lodge, whose Charter stated it was incorporated for the mutual benefit and social intercourse of its members, was not "organized" exclusively for "charitable purposes", even though the corporation engaged in a considerable amount of charitable work.
  - 2) In the case of an unincorporated society, association, etc., the Constitution and Bylaws thereof will determine the purpose for which it is organized.
  - 3) To qualify for total exemption the purchaser must be organized "and operated" exclusively for charitable, religious or educational purposes.
- k) Examples of Exempt Buyers

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- 1) Some examples of purchasers which come within this exemption are churches, Sunday Schools, Church Ladies' Aid Societies, Salvation Army and other nonprofit corporations, societies, associations, foundations and institutions organized and operated exclusively for religious purposes (but not including Ministers or other individuals when making purchases from their own funds); corporations, societies, associations, foundations and institutions organized and operated exclusively for educational purposes, whether such purchaser is organized and operated as a business enterprise or on a not-for-profit basis (but see subsection (1) below); homes for the aged which are not organized or operated as a business enterprise with a view to profit and which otherwise qualify as charitable institutions; nonprofit corporations, societies, associations, foundations and institutions organized and operated exclusively for the purpose of conducting scientific research of a character that would be beneficial to the public (held to be a charitable purpose); the American National Red Cross, Community Fund or United Fund organizations, the Y.M.C.A., the Y.W.C.A., Boy Scouts of America (as a corporation, but not as individuals), Girl Scouts of America (as a corporation or association, but not as individuals), nonprofit Parent-Teacher Associations, the National Safety Council and similar organizations and nonprofit societies for the prevention of cruelty to children or animals (all classified as charitable); free public libraries that are not operated for profit and that are not operated by commercial enterprises (whether such libraries are governmental units or not), and local housing authorities.
- 2) These examples are illustrative, but not exhaustive.
- 3) To come within this exemption, the purchaser (in addition to being organized and operated exclusively for charitable, religious or educational purposes) must be a "corporation", a "society", an "association", a "foundation" or an "institution".
- 1) "Educational Purposes" and "School" Defined and Illustrated
  - 1) Receipts received from retail sales to corporations, societies, associations, foundations and institutions that are organized and operated exclusively for educational purposes are not taxable. There is no specific exemption in the Constitution for "educational purposes" as to any kind of tax, but Section 6 of Article IX of the Illinois Constitution authorizes the General Assembly to grant a property tax exemption for property that is used for "school . . . purposes". Consequently, the Department will construe the Retailers' Occupation Tax exemption for "educational purposes" as meaning for "school . . . purposes", as the phrase "school . . . purposes" has been interpreted or may be interpreted by the Supreme Court. Section 2h of the Act provides the statutory definition of "a corporation, society, association, foundation or institution organized and operated exclusively for

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educational purposes."

- 2) The Supreme Court has said that a school is a place where systematic instruction in useful branches of learning is given by methods common to schools and institutions of learning and does not include schools for teaching dancing, riding and deportment. In that connection, the Supreme Court has held that an organization which conducts a four-week training school each summer for funeral directors is not a school because the courses given and the intensity of their instruction do not compare favorably with those in a department of mortuary science and mortuary practice at regular colleges and universities, but represent only a superficial or brief instruction in courses constituting a minor part of the study of mortuary science.
- 3) Consequently, flying schools, driving schools, art association schools, modeling schools, charm schools, and the like are not organized and operated exclusively for educational purposes because they do not offer courses which constitute systematic instruction in useful branches by methods common to public schools and which compare favorably in their scope and intensity with the course of study presented in tax-supported schools within the meaning of the Retailers' Occupation Tax Act.
- 4) However, the exemption for educational purposes includes private schools (such as parochial grade and high schools, private colleges and the like) as well as government-owned tax-supported schools so long as the institution qualifies as a school as hereinabove described.
- 5) Also, the Retailers' Occupation Tax "educational purposes" exemption is not limited by the statute to nonprofit institutions. The exemption would include vocational or technical schools or institutions organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business or commercial occupation (such as a business-operated law school) as long as the institution otherwise qualifies as a school within the meaning of this subsection and the Act. (See subsection (q) of this Section and Section 2(h) of the Act).<sup>1</sup>
- 6) In addition, for Property Tax purposes, the Supreme Court has held that an association, which is not itself a school in the ordinary sense, but which provides a substantial service in improving the educational standards of schools (such as the Association of American Medical Colleges), is within the "school purposes" exemption, so the Department will consider such an organization to be organized and operated exclusively for "educational purposes" for Retailers' Occupation Tax purposes.
- 7) Literary societies, though somewhat educational, are mainly for the benefit of their own members as a hobby or pastime and do not relieve the public of a duty nor contribute sufficiently to the

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public to qualify for an exemption, and they are not places where systematic instruction in useful branches of learning is given by methods common to schools and institutions of learning in the ordinary or commonly accepted meanings of those terms.

- m) Nonprofit Hospitals and Sanitararia.
  - 1) In the case of privately-owned hospitals, in addition to the fact that the hospital must be organized and operated as a nonprofit enterprise (with proceeds, if any, over expenses being put into the expansion of the hospital's services, equipment and physical plant), some of the tests which the Supreme Court has required to be met before the hospital can qualify as being organized and operated exclusively for charitable purposes are that the hospital must not discriminate against patients or doctors because of race, color, creed or religion, and that the hospital must not refuse admittance to any patient because of his inability to pay for hospital service.
  - 2) It is immaterial that most of the hospital's patients may be paying patients if the hospital does not adopt any policy which is calculated to prevent persons who cannot pay from seeking and obtaining admittance to the hospital.
  - 3) Delaying the admittance of nonemergency cases while the hospital makes an investigation to try to find someone who will give the prospective patient financial help has been held not to be an obstacle to admittance if the hospital does not engage in such delaying tactics in the case of emergency patients and if the hospital ultimately admits destitute patients notwithstanding the fact that they cannot pay for services and cannot procure financial help.
  - 4) A hospital does not lose its character as a charitable organization because of the fact that it refuses admittance to patients who are suffering from dangerously contagious diseases. Government-owned hospitals are deemed by the Department to be organized and operated exclusively for charitable purposes within the meaning of this Section.
  - 6) The principles stated in this subsection with respect to hospitals apply also to sanitararia and clinics.
- n) Meaning of "Exclusively"
  - 1) Although the provision of the Retailers' Occupation Tax Act under discussion, in excluding receipts from all sales to certain kinds of purchasers, refers to them as being organized and operated "exclusively" for charitable, religious or educational purposes, the Supreme Court has not given the word "exclusively" its most literal interpretation under similar circumstances because of the virtual impossibility of anyone being engaged "exclusively" in anything, and so the Department will follow a similar policy in applying the word "exclusively", as used in the Retailers' Occupation Tax Act and in this Section, in order to carry out the manifest intention of the General Assembly.



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2) However, if a substantial purpose or activity of the purchaser is not charitable, religious or educational, the Department will not consider the purchaser to be organized and operated exclusively for charitable, religious or educational purposes within the meaning of the Act.

o) Educational, Scientific and Similar Institutions, Associations and Organizations Operated as "Business" Enterprises -- When Liable For Tax

Persons engaged habitually, for livelihood or gain, in hospital, educational, religious, scientific, social or cultural enterprises are among those who are engaged in a service occupation which is nevertheless a "business" within the meaning of the Act. When persons who operate businesses of the type described in the preceding sentence sell tangible personal property to purchasers for use or consumption apart from their rendering of service, such persons incur Retailers' Occupation Tax liability. This is the case, for example, where hospitals which are conducted as "business" enterprises operate public dining rooms, public pharmaceutical dispensaries or otherwise sell tangible personal property at retail to the general public, or where schools which are operated as "business" enterprises sell tangible personal property at retail to the general public or make retail sales to students of clothing, dormitory supplies or other items which cannot be said to be used "primarily for the purposes of" the school. Also, business-operated schools incur Retailers' Occupation Tax liability on their retail sales of school books and school supplies to their students and faculty members.

p) Educational, Scientific and Similar Institutions, Associations and Organizations Operated as "Business" Enterprises -- When Not Liable For Tax

1) Persons of the type described in the preceding paragraph are engaged primarily in rendering service, and, to this extent, they are engaged in a service occupation. To the extent to which they engage in such service occupation, they are not required to remit Retailers' Occupation Tax measured by any of their receipts which they realize from their rendering of service, including those receipts which represent the price of tangible personal property which they transfer to others as a necessary incident to their rendering of service. The sale of meals to patients and the furnishing of medicine for a consideration to patients in the course of treatment by business-operated hospitals and business-operated licensed nursing homes come within this service occupation exemption for Retailers' Occupation Tax purposes. However, the person engaged in such service occupation incurs Service Occupation Tax liability on his cost price of the food, medicine or other tangible personal property which such person purchases and retransfers as an incident to service to users (see Subpart A of the Service Occupation Tax Regulations, 86 Ill. Adm. Code 140).

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2) Business-operated schools do not incur Retailers' Occupation Tax liability on their sales of meals in a dining facility which is located on the premises of the school and whose use is confined to the students and employees of the school.

q) Suppliers of Educational, Scientific and Similar Institutions, Associations and Organizations Operated as "Business" Enterprises

1) Suppliers of educational, scientific and similar institutions, associations and organizations operated as "business" enterprises do not incur Retailers' Occupation Tax liability when they sell tangible personal property to any such purchaser for resale either in connection with or apart from the purchaser's rendering of service to others. However, for information concerning the fact that purchases of food, medicine and other tangible personal property by business-operated hospitals or business-operated licensed nursing homes for retransfer to patients as an incident to service are subject to the Service Occupation Tax, see Subpart A of the Service Occupation Tax Regulations. Suppliers of purchasers of the kind referred to in the first sentence of this paragraph incur Retailers' Occupation Tax liability when they sell tangible personal property to any such purchaser at retail (i.e., for use or consumption by the purchaser or to be given away by the purchaser, and not for resale in any form as tangible personal property), provided that the tax does not apply to receipts received by the seller from sales of any kind made to any purchaser of this character who is able to qualify as a school. In excluding, from the measure of the tax, receipts received by the seller from sales of any kind to a school, the Act does not distinguish between business and nonprofit schools.

2) Nevertheless, while the Department recognizes that a purchaser may qualify as a school for exemption purposes notwithstanding the fact that the purchaser is organized and operated as a business enterprise, the Department takes the position that such a purchaser cannot be organized and operated exclusively for charitable or religious purposes if such purchaser is organized and operated as a business enterprise with a view to profit.

r) Reporting -- Records -- Burden of Proof

1) When a seller claims exemption from the Retailers' Occupation Tax for receipts received by the seller from his sale of tangible personal property to a corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, the seller should include such receipts in his Retailers' Occupation Tax return form, but then should deduct such receipts on the line provided for that purpose in the return form (see Subpart E of this Part).

2) The seller must maintain adequate books and records to sustain such deductions (see Subpart H of this Part).

3) Sellers claiming the benefit of this exemption are cautioned

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against laxity in claiming the benefit of this exemption without verifying the status of the purchaser since the seller will have the burden of proof in establishing his right to any such claimed exemption. The Courts have held repeatedly that the burden of sustaining a right to tax exemption is on the person claiming such exemption. Tax exemption provisions in statutes are strictly construed against the taxpayer, although the words employed in such provisions will be given their commonly accepted and understood meanings.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## CAPITAL DEVELOPMENT BOARD

## NOTICE OF ADOPTED AMENDMENT(S)

- 1) Heading of the Part: Board Action
- 2) Code Citation: 71 Ill. Adm. Code 10
- 3) Section Numbers: Adopted Action:  
10.120 Amendment
- 4) Statutory Authority: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105].
- 5) Effective date of Rule: May 20, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? No
- 8) Date filed in Agency's Principal Office: May 27, 1997
- 9) Notice of Proposal Published in Illinois Register: This amendment involves the internal procedure of the agency, neither prior publication nor a public comment period was required for this rulemaking.
- 10) Has JCAR issued a Statement of Objections to this rule? No
- 11) Difference(s) between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Since this amendment involves the internal procedure of the agency, no JCAR comment period was required for this rulemaking.
- 13) Will this amendment replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Changes procedures for notice of special Board meetings, allowing notice to members by facsimile, rather than registered or certified mail.
- 16) Information and questions regarding this adopted rule shall be directed to:

Claire Gibson, Deputy Chief Counsel  
Capital Development Board  
3rd Floor, Wm. G. Stratton Bldg.  
Springfield, IL 62706  
217/782-1392

## CAPITAL DEVELOPMENT BOARD

## NOTICE OF ADOPTED AMENDMENT(S)

The full text of the adopted rule begins on the next page:

## CAPITAL DEVELOPMENT BOARD

## NOTICE OF ADOPTED AMENDMENT(S)

TITLE 71: PUBLIC BUILDINGS, FACILITIES AND REAL PROPERTY  
CHAPTER I: CAPITAL DEVELOPMENT BOARD  
SUBCHAPTER a: RULES

PART 10  
BOARD ACTION

## Section

10.110	General Policy
10.120	Schedule and Notice
10.130	Quorum
10.140	Vice-Chairperson & Secretary
10.150	Agenda and Order of Proceedings
10.160	Rules for Meeting
10.170	Board Action
10.180	Minutes
10.190	Revision of Rules (Repealed)
10.200	Litigation

AUTHORITY: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105].

SOURCE: Adopted at 2 Ill. Reg. 30, p. 140, effective July 27, 1978; amended at 4 Ill. Reg. 9, p. 233, effective February 14, 1980; amended at 5 Ill. Reg. 1980, effective February 17, 1981; amended and codified at 8 Ill. Reg. 20240, effective October 1, 1984; amended at 20 Ill. Reg. 15226, effective November 15, 1996; amended at 21 Ill. Reg. ~~7114~~ 7114, effective

MAY 20 1997

## Section 10.120 Schedule and Notice

- a) Regular Meetings. The Board shall adopt prior to the beginning of each fiscal year a schedule of all its regular meetings which shall appear at least once in its minutes. The schedule shall include the dates, times and places of such meetings. This schedule shall be posted at the Board's executive office in Springfield. A copy of the schedule shall be sent to all parties requesting a copy. Requests should be mailed to: Executive Director, Capital Development Board, 401 South Spring Street, Springfield, Illinois 62706.
- b) Special Meetings. Upon the request of two or more members of the Board, one of whom may be the Chairperson, the Board may hold a special meeting on call of the Chairperson. Such request of two or more members shall be evidenced in by written application to the Chairperson. At least 48 hours written notice of the special meeting shall be given to the members. Such written notice Notice shall be promulgated by the Executive Director upon direction of the Chairperson and shall be sent to each member by facsimile transmission registered-or-certified-mail.



## CAPITAL DEVELOPMENT BOARD

## NOTICE OF ADOPTED AMENDMENT(S)

- c) Public Notice. Public notice of all special meetings, rescheduled regular meetings or any reconvened meetings shall be given at least 48 hours in advance of each meeting by posting a copy of the notice at the Board's executive office, and by mailing to any person having made application.

(Source: Amended at 21 Ill. Reg. 7114, effective  
MAY 20 1997)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Numbers: Adopted Action:  
310.230 Amended  
310.280 Amended
- 4) Statutory Authority: Authorized by Section 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].
- 5) Effective Date of Amendment: June 3, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date filed in Agency's Principal Office: June 3, 1997
- 9) Notice of Proposal Published in Illinois Register: February 28, 1997, 21 Ill. Reg. 2762
- 10) Has JCAR issued a Statement of Objections to this rule? No
- 11) Difference between proposal and final version: In Section 310.230, the maximum hourly rate for the Physician Specialist, Option C, was revised from \$75 to \$105 which was recently adopted at 21 Ill. Reg. 6444, effective May 14, 1997.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? The Joint Committee on Administrative Rules did not recommend any changes.
- 13) Will these Amendments replace an emergency amendment currently in effect?  
No
- 14) Are there any amendments pending to this Part? No
- 15) Summary and Purpose of Amendments:  
In Section 310.230, Part-Time Daily or Hourly Special Services Rate, the abolished Hearing and Speech Coordinator title was replaced with the Hearing and Speech Advanced Specialist. The hourly rate of \$15 to \$30 remains appropriate for the new Hearing and Speech Advanced Specialist title.

In Section 310.280, Designated Rate, the annual salaries for the Economic Development Representative II and Public Information Officer IV in the

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED AMENDMENTS

Department of Commerce and Community Affairs were revised from \$50,400 to \$51,912, and from \$54,552 to \$56,184, respectively. Also, a Private Secretary II with the annual salary of \$48,852 in the Illinois Industrial Commission was added to this Section. These Designated Rate changes have already been approved by the Governor and are now being adopted into the Pay Plan.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Mr. Michael Murphy  
Department of Central Management Services  
Division of Technical Services  
504 William G. Stratton Building  
Springfield, IL 62706  
(217) 782-5601

The full text of the Adopted Amendment(s) begins on the next page:

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND  
POSITION CLASSIFICATIONS

## CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310  
PAY PLAN

## SUBPART A: NARRATIVE

Section  
310.20  
310.30  
310.40  
310.50  
310.60  
310.70  
310.80  
310.90  
310.100  
310.110  
310.120  
310.130  
310.140  
310.150

Policy and Responsibilities  
Jurisdiction  
Pay Schedules  
Definitions  
Conversion of Base Salary to Pay Period Units  
Conversion of Base Salary to Daily or Hourly Equivalents  
Increases in Pay  
Decreases in Pay  
Other Pay Provisions  
Implementation of Pay Plan Changes for Fiscal Year 1997  
Interpretation and Application of Pay Plan  
Effective Date  
Reinstitution of Within Grade Salary Increases  
Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984 (Repealed)

## SUBPART B: SCHEDULE OF RATES

Section  
310.205  
310.210  
310.220  
310.230  
310.240  
310.250  
310.260  
310.270  
310.280  
310.290  
310.300  
310.310  
310.320  
310.330

Introduction  
Prevailing Rate  
Negotiated Rate  
Part-Time Daily or Hourly Special Services Rate  
Hourly Rate  
Member, Patient and Inmate Rate  
Trainee Rate  
Legislated and Contracted Rate  
Designated Rate  
Out-of-State or Foreign Service Rate  
Educator Schedule for RC-063 and HR-010  
Physician Specialist Rate  
Annual Compensation Ranges for Executive Director and Assistant  
Executive Director, State Board of Elections  
Excluded Classes Rate (Repealed)

## SUBPART C: MERIT COMPENSATION SYSTEM

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED AMENDMENTS

Section	Jurisdiction
310.410	Objectives
310.420	Responsibilities
310.430	Merit Compensation Salary Schedule
310.440	Procedures for Determining Annual Merit Increases
310.450	Intermittent Merit Increase
310.455	Merit Zone (Repealed)
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
310.540	Annual Merit Increase Guidechart for Fiscal Year 1997
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)
APPENDIX A	Negotiated Rates of Pay
TABLE A	HR-190 (Department of Central Management Services - State of Illinois Building - SEIU)
TABLE AA	NR-916 (Department of Natural Resources, Teamsters)
TABLE B	HR-200 (Department of Labor - Chicago, Illinois - SEIU)
TABLE C	RC-069 (Firefighters, AFSCME)
TABLE D	HR-001 (Teamsters Local #726)
TABLE E	RC-020 (Teamsters Local #330)
TABLE F	RC-019 (Teamsters Local #25)
TABLE G	RC-045 (Automotive Mechanics, IPPE)
TABLE H	RC-006 (Corrections Employees, AFSCME)
TABLE I	RC-009 (Institutional Employees, AFSCME)
TABLE J	RC-014 (Clerical Employees, AFSCME)
TABLE K	RC-023 (Registered Nurses, INA)
TABLE L	RC-008 (Boilermakers)
TABLE M	RC-110 (Conservation Police Lodge)
TABLE N	RC-010 (Professional Legal Unit, AFSCME)
TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IPPE)
TABLE Q	RC-033 (Meat Inspectors, IPPE)
TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)
TABLE S	HR-012 (Fair Employment Practices Employees, SEIU)
TABLE T	HR-010 (Teachers of Deaf, IFT)
TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
TABLE V	CU-500 (Corrections, Meet and Confer Employees)
TABLE W	RC-062 (Technical Employees, AFSCME)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED AMENDMENTS

TABLE X	RC-063 (Professional Employees, AFSCME)
TABLE Y	RC-063 (Educators, AFSCME)
TABLE Z	RC-063 (Physicians, AFSCME)
APPENDIX B	Schedule of Salary Grades - Monthly Rates of Pay for Fiscal Year 1997
APPENDIX C	Medical Administrator Rates for Fiscal Year 1997
APPENDIX D	Merit Compensation System Salary Schedule for Fiscal Year 1997
APPENDIX E	Teaching Salary Schedule (Repealed)
APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
APPENDIX G	Broad-Band Pay Range Classes Salary Schedule

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1987; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; peremptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; peremptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg.



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED AMENDMENTS

3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment 11 Ill. Reg. 17919, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; peremptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14,

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED AMENDMENTS

1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 7841, effective June 1, 1995; effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 21 Ill. Reg. 15092, effective November 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7110, effective JUN 15 1997.

SUBPART B: SCHEDULE OF RATES

Section 310.230 Part-Time Daily or Hourly Special Services Rate

The rate of pay as approved by the Director of Central Management Services for persons employed on a consultative or part-time basis requiring irregular hours of work shall be as listed below, except the total compensation of an employee in any given month shall not exceed the monthly rate of Step 5 of the salary grade for the title as shown in the Schedule of Salary Grades (Appendix B) of this Part. If the class title is subject to the Schedule of Salary Grades, or Step 5 of the negotiated salary range for classes of positions shown in Section 310.220, Subpart B, Schedule of Rates, or 75% of the maximum rate of those classes of positions subject to the provisions of the Merit Compensation System, Subpart C of this Pay Plan.

Account Technician II	11.00 to 14.08 (hourly)
Apiary Inspector	83 to 106 (daily)
Building/Grounds Laborer	8.28 to 10.15 (hourly)
Building/Grounds Lead I	4.75 to 6.00 (hourly)
Building/Grounds Lead II	4.75 to 7.00 (hourly)
Building/Grounds Maintenance Worker	5.25 to 8.00 (hourly)
Chaplain I	5.00 to 6.00 (hourly)
Chemist I	36 to 70 (daily)
Conservation/Historic Preservation Worker	36 to 45 (daily)
Conservation/Historic Preservation Worker (2nd season -- site interpretation)	4.75 to 6.50 (hourly)
Conservation/Historic Preservation Worker (3rd season -- site interpretation)	4.75 to 6.50 (hourly)
Dentist I	4.78 to 6.50 (hourly)
	70 to 150 (daily)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Dentist II	100 to 185 (daily)
Educator	36 to 85 (daily)
Educator Aide	36 (daily)
Guard II	67 to 84 (daily)
Guard III	75 to 96 (daily)
Hearing and Speech Advanced Specialist	15 to 30 (hourly)
Hearing and Speech-Coordinator	
Hearings Referee	75 to 200 (daily)
Janitor I	4.75 to 5.30 (hourly)
Labor Maintenance Lead Worker	5.00 to 6.00 (hourly)
Labor Relations Investigator	36 to 70 (daily)
Laborer (Maintenance)	4.75 to 5.70 (hourly)
Maintenance Worker	4.75 to 5.00 (hourly)
Occupational Therapist	
Program Coordinator	40 to 160 (daily)
Office Aide	8.12 to 10.71 (hourly)
Office Assistant	60 to 80 (daily)
Office Associate	9.16 to 12.36 (hourly)
Office Clerk	68 to 93 (daily)
Optometrist	9.80 to 13.44 (hourly)
Physician	73 to 101 (daily)
Physician Specialist (A)	8.58 to 11.49 (hourly)
Physician Specialist (B)	64 to 86 (daily)
Physician Specialist (C)	15 to 35 (hourly)
Physician Specialist (D)	50 to 160 (daily)
Podiatrist	100 to 300 (daily)
Psychologist I	20 to 60 (hourly)
Psychologist II	100 to 325 (daily)
Psychologist III	20 to 70 (hourly)
Recreation Worker I	100 to 350 (daily)
Registered Nurse I	20 to 75 (hourly)
Registered Nurse I (2nd or 3rd shift)	100 to 360 (daily)
Registered Nurse I (Cook County)	20 to 115 (hourly)
Registered Nurse I (Cook County - 2nd or 3rd shift)	100 to 370 (daily)
Registered Nurse II	50 to 125 (daily)
	36 to 80 (daily)
	40 to 125 (daily)
	40 to 150 (daily)
	5.33 (hourly)
	36 to 40 (daily)
	39 to 54 (daily)
	41 to 56 (daily)
	43 to 58 (daily)
	44 to 59 (daily)
	43 to 58 (daily)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Registered Nurse II  
(2nd or 3rd shift) 44 to 59 (daily)  
Registered Nurse II (Cook County) 45 to 60 (daily)  
Registered Nurse II (Cook County -  
2nd or 3rd shift) 47 to 62 (daily)  
Revenue Tax Specialist I 11.56 to 16.16 (hourly)  
Social Worker II 86 to 122 (daily)  
Social Worker III 36 to 75 (daily)  
Student Worker 36 to 80 (daily)  
Technical Advisor II 4.75 to 8.00 (hourly)  
Technical Advisor III 32 to 35 (hourly)  
Veterinarian II 32 to 60 (hourly)  
95 to 130 (daily)

(Source: Amended at 21 Ill. Reg. 7113, effective  
JUN 13 1997)

## Section 310.280 Designated Rate

The rate of pay for a specific position or class of positions where it is deemed desirable to exclude such from the other requirements of this Pay Plan shall be only as designated by the Governor.

Department of Children & Family Services

Private Secretary II  
(Pos. No. 34202-16-00-000-03-30)

Annual Salary  
43,452

Department of Commerce & Community Affairs

Economic Development Representative II  
(Pos. No. 12932-42-35-140-30-01)

Annual Salary  
51,912  
59,400

Private Secretary II  
Pos. No. 34202-42-00-000-01-02)

Annual Salary  
43,164

Public Information Officer IV  
(Pos. No. 37004-42-00-073-10-01)

Annual Salary  
56,184  
54,552

Public Service Administrator  
(Pos. No. 37015-42-35-140-20-01)

Annual Salary  
65,592

Illinois Industrial Commission

Private Secretary II  
(Pos. No. 34202-50-37-000-00-01)

Annual Salary  
48,852

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED AMENDMENTS

Department of Insurance

Senior Public Service Administrator  
(Pos. No. 40070-14-00-000-00-06)

Annual Salary  
97,100

Department of Mental Health and Developmental Disabilities

Medical Administrator I, Option D  
(Pos. No. 26401-22-59-903-10-02)

Annual Salary  
131,250

Medical Administrator II, Option D  
(Pos. No. 26403-22-66-260-00-01)

Annual Salary  
142,000

Private Secretary II  
(Pos. No. 34202-22-15-000-00-01)

Annual Salary  
41,004

Department of Revenue

Public Service Administrator  
(Pos. No. 37015-25-12-000-00-01)

Annual Salary  
69,744

Department of State Police

Senior Public Service Administrator  
(Pos. No. 40070-21-10-000-00-01)

Annual Salary  
85,153

(Source: Amended at 21 Ill. Reg.  
JUN 13 1997)

7113, effective



## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

1) Heading of the Part: Approval or Rejection of Arbitrated Agreements2) Code Citation: 83 Ill. Adm. Code 762

<u>Section Numbers:</u>	<u>Proposed Action:</u>
762.10	New Section
762.20	New Section
762.30	New Section
762.40	New Section
762.50	New Section
762.60	New Section
762.100	New Section
762.110	New Section
762.120	New Section
762.130	New Section
762.200	New Section
762.205	New Section
762.210	New Section
762.220	New Section
762.300	New Section
762.310	New Section
762.320	New Section
762.410	New Section
762.420	New Section
762.430	New Section
762.440	New Section

4) Statutory Authority: Implementing Section 252 of the Communications Act of 1934 (47 U.S.C. 252) and Section 10-101 of the Public Utilities Act and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101].5) Effective Date of Rules: June 1, 19976) Does this rulemaking contain an automatic repeal date? No7) Do these rules contain incorporations by reference? No8) Date filed in Agency's Principal Office: May 21, 19979) Notice of Proposal Published in Illinois Register: June 28, 1996, at 20 Ill. Reg. 840710) Has JCAR issued a Statement of Objections to these rules? Yes

A) November 1, 1996, 20 Ill. Reg. 14287. Filing prohibition withdrawn, May 2, 1997, 21 Ill. Reg. 5658

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

11) Differences between proposal and final version:

Section 762.20: Added "including the provisions of Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10]".

Section 762.310: Deleted originally proposed language and replaced it with current language.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes required.

13) Will these rules replace emergency rules currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: These rules are a response to the Telecommunications Act of 1996 (P.L. 104-104), that places certain responsibilities on State agencies with regulatory responsibilities over telecommunications carriers, among them being the approval or rejection of arbitrated agreements between the telecommunications carriers. These rules provide rules of practice that are specifically designed to implement this type of proceeding under Section 252 of the Telecommunications Act of 1996. The Commission has established the requirements for the form, filing, and the service of documents in the arbitration proceeding, discovery, and procedure prior to, during, and following the arbitration proceeding.

16) Information and questions regarding these adopted rules shall be directed to:

Conrad Rubinkowski  
Office of General Counsel  
Illinois Commerce Commission  
527 East Capitol Avenue  
P.O. Box 19280  
Springfield, IL 62794-9280  
(217)785-3922  
Fax: (217)524-9280

The full text of the Adopted Rules begins on the next page:

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

TITLE 83: PUBLIC UTILITIES  
CHAPTER I: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER f: TELEPHONE UTILITIES

## PART 762

APPROVAL OR REJECTION OF ARBITRATED  
AGREEMENTS

## SUBPART A: GENERAL PROVISIONS

Section  
762.10  
762.20  
762.30  
762.40  
762.50  
762.60

Procedure Governed  
Deviation from this Part  
Definitions  
Authority of Hearing Examiner  
Federal Preemption of State Court Review  
Failure to Act

## SUBPART B: FORM, FILING AND SERVICE OF DOCUMENTS

Section  
762.100  
762.110  
762.120  
762.130

Communications to the Commission  
Submission for Commission Approval of an Arbitrated Agreement  
Filing of Comments  
Service

## SUBPART C: PRE-DECISIONAL PROCEDURE

Section  
762.200  
762.205  
762.210  
762.220

Pre-decisional Conferences  
Schedule of Pre-decisional Procedure  
Intervention  
Protective Orders

## SUBPART D: DECISIONAL PROCEDURE

Section  
762.300  
762.310  
762.320

Disqualification of Hearing Examiner  
Consolidation and Severance  
Ex Parte Communications

## SUBPART E: POST-COMMENT PROCEDURE

Section  
762.410  
762.420  
762.430

Hearing Examiner's Proposed Decision  
Exceptions  
Oral Argument

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

762.440 Additional Comments

AUTHORITY: Implementing Section 252 of the Communications Act of 1934 (47 U.S.C. 252) and Section 10-101 of the Public Utilities Act and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101].

SOURCE: Adopted at 21 Ill. Reg. 7129, effective June 1, 1997.

## SUBPART A: GENERAL PROVISIONS

## Section 762.10 Procedure Governed

This Part governs practice and procedure before the Illinois Commerce Commission (Commission) in the approval or rejection of arbitrated agreements required by Sections 252(e)(1) and 252(e)(2)(B) of the Communications Act of 1934 (47 U.S.C. 252).

## Section 762.20 Deviation from this Part

To the extent permitted by law, including the provisions of Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100 Art 10], any provision of this Part may be waived, suspended or modified by the Commission or an Examiner, either upon their own motion or upon motion by any person.

## Section 762.30 Definitions

Unless otherwise defined, the following terms as used in this Part shall have the following meanings:

"Commissioner" means a member of the Commission.

"Documents" means petitions, amended and supplemental petitions, motions, responses, replies, notices, proposed decisions, exceptions to Hearing Examiners' proposed orders, comments, drafts or suggested forms of order, and similar writings.

"Hearing Examiner" means a person employed by the Commission under Section 2-106 of the Public Utilities Act, who is assigned to conduct arbitration proceedings pursuant to Section 252 of the Communications Act of 1934 (47 U.S.C. 252). A Commissioner may also serve as a Hearing Examiner for purposes of this Part.

"Intervenor" means a person who, upon written petition, is permitted to intervene in any proceeding under this Part.

"Party" means those persons who submit to the Commission for approval

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

an arbitrated agreement pursuant to Section 252(e) of the Communications Act of 1934 (47 U.S.C. 252); or, a person allowed by the Commission or Hearing Examiner to intervene in a proceeding. Staff is not a party but shall have the specific rights and duties of parties as enumerated in this Part.

"Person" means any individual, partnership, corporation, governmental body or unincorporated association.

"Staff" or "Commission Staff" means individuals employed by the Commission. For purposes of this Part, a Hearing Examiner is not considered a member of the Commission Staff.

**Section 762.40 Authority of Hearing Examiner**

a) The Hearing Examiner shall have authority over the conduct of a proceeding under this Part and the responsibility for submission of the matter to the Commission for decision. The Hearing Examiner shall have those duties and powers necessary to these ends, including the following:

- 1) To conduct hearings and pre-decisional conferences;
  - 2) To grant or deny Petitions to Intervene;
  - 3) To conduct discovery of the parties;
  - 4) To authorize the parties to conduct discovery and to supervise all discovery so authorized;
  - 5) To direct parties to serve testimony and exhibits and establish a date certain for service;
  - 6) To administer oaths and affirmations;
  - 7) To ensure that the proceedings are conducted in a full, fair and impartial manner, that order is maintained and that unnecessary delay is avoided in the disposition of the proceedings;
  - 8) To examine witnesses and allow the examination of an adverse party or agent;
  - 9) To rule upon all matters which do not result in the final determination of the proceeding;
  - 10) To call upon any party at any stage of the proceeding to produce further information that is material and relevant to any issue;
  - 11) To issue recommended decisions pursuant to Section 762.410 of this Part;
  - 12) To issue protective orders in accordance with 83 Ill. Adm. Code 762.220; and
  - 13) To have any proceeding transcribed by a reporter appointed by the Commission.
- b) Any party who fails to comply with an order of the Hearing Examiner may be limited in its presentation of information during the proceeding.

**Section 762.50 Federal Preemption of State Court Review**

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

No State court shall have jurisdiction to review the action of the Commission in approving or rejecting an agreement under Section 252 of the Communications Act of 1934.

**Section 762.60 Failure to Act**

Pursuant to Section 252(e)(4) of the Communications Act of 1934, if the Commission does not act to approve or reject the agreement within 30 days after submission by the parties of an agreement adopted by arbitration under Section 252(b) of the Communications Act of 1934, the agreement shall be deemed approved.

## SUBPART B: FORM, FILING AND SERVICE OF DOCUMENTS

**Section 762.100 Communications to the Commission**

All documents to be filed with or submitted to the Commission shall be addressed to: The Chief Clerk, Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois 62706. All formal communications and documents are deemed to be officially filed or submitted only when delivered to the principal office of the Commission. The Chief Clerk is the official custodian of all Commission records.

**Section 762.110 Submission for Commission Approval of an Arbitrated Agreement**

All arbitrated agreements submitted under this Part shall be accompanied by written comments and draft proposed decisions supporting either approval or rejection of the agreement.

**Section 762.120 Filing of Comments**

An original and 11 copies of all comments and draft proposed decisions shall be filed with the Commission. Comments shall be concise, and, if in excess of 20 pages, excluding appendices, shall contain:

- a) A table of contents;
- b) A short statement of the case;
- c) A summary of the position of the party filing; and
- d) Argument.

**Section 762.130 Service**

- a) All documents shall be deemed filed on the date received by the Chief Clerk of the Commission. Service on the Chief Clerk of the Commission cannot be made by telephone facsimile. All documents must be served upon the parties and intervenors to the proceeding on the day they are filed with the Chief Clerk of the Commission.
- b) Proof of service of any paper shall be by certificate of attorney, acknowledgement of receipt, or affidavit.



## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

## SUBPART C: PRE-DECISIONAL PROCEDURE

**Section 762.200 Pre-decisional Conferences**

Upon direction of the Commission or on his or her own motion, the Hearing Examiner may request all parties to attend a pre-decisional conference. Notice of the pre-decisional conference shall be given in writing, telephone, or telephone facsimile no later than 24 hours before the pre-decisional conference. Such a conference may be held for any purpose, including, but not limited to:

- a) Scheduling;
- b) Identification and simplification of issues;
- c) Amendments to documents; and
- d) Such other matters as may aid in the simplification of the issues and disposition of the proceeding.

**Section 762.205 Schedule of Pre-decisional Procedure**

In the absence of a schedule established at a Section 762.200 pre-decisional conference, all other parties to the proceeding shall file and serve comments and draft proposed decisions twelve days from the filing of the petition for approval of the arbitrated agreement.

**Section 762.210 Intervention**

- a) Petitions to intervene shall contain:

- 1) The name, address and telephone number of the petitioner seeking leave to intervene;
  - 2) A plain and concise statement of the nature of such petitioner's interest;
  - 3) A prayer for leave to intervene and be treated as a party to the proceeding.
- b) While a petition for leave to intervene is pending, the Hearing Examiner, in his or her discretion, may permit the petitioner to participate in the proceeding.

**Section 762.220 Protective Orders**

At any time during the pendency of a proceeding, the Commission or the Hearing Examiner may, on the motion of any person, enter an order to protect the confidential, proprietary or trade secret nature of any data, information or studies.

## SUBPART D: DECISIONAL PROCEDURE

**Section 762.300 Disqualification of Hearing Examiner**

- a) A Hearing Examiner assigned to a proceeding may, upon written request

## ILLINOIS COMMERCE COMMISSION

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to and approval of the Chief Hearing Examiner, recuse himself or herself from the proceeding.

- b) Whenever any party believes a Hearing Examiner for any reason should be disqualified from conducting, or continuing to conduct, a proceeding assigned to him or her, such party may file a motion to disqualify the Hearing Examiner, setting forth by affidavit the alleged grounds for disqualification. The Hearing Examiner shall have 5 days after filing of the motion within which to enter a written ruling thereon. A copy of such ruling shall be served upon all parties.
- c) Any ruling by a Hearing Examiner denying a request for recusal under this Section may be reviewed by the Commission. Review shall be sought no more than 3 days from the denial of the motion to recuse or disqualify. The party seeking review of the ruling shall file with the Chief Clerk a verified petition, together with any offer of proof, and shall serve a copy of the petition upon the Hearing Examiner and all parties to the proceeding. Other parties and the staff representative may file responses within 3 days after the filing of the petition. The Hearing Examiner shall have 3 days from the filing of the petition within which to file a report to the Commission with the Chief Clerk, who shall serve copies of such report on the parties and the staff representative.

**Section 762.310 Consolidation and Severance**

- a) Where not inconsistent with the requirements of the Communications Act of 1934, the Commission or Hearing Examiner may, to the extent practical, order the consolidation of two or more proceedings under Section 252(a) of the Communications Act of 1934 in order to reduce administrative burdens on telecommunications carriers and the Commission in carrying out its responsibilities under Section 252 of the Communications Act of 1934.
- b) Where not inconsistent with the requirements of the Communications Act of 1934, the Commission or Hearing Examiner may, to the extent practical, order the severance of two or more proceedings previously consolidated under subsection (a) of this Section in order to reduce administrative burdens on telecommunications carriers and the Commission in carrying out its responsibilities under Section 252 of the Communications Act of 1934 or order the severance of issues from a proceeding in those instances where the issues need not be decided within the time limit set in the Communications Act of 1934 for the Commission's decision on an agreement adopted by arbitration.

**Section 762.320 Ex Parte Communications**

- a) The provisions of Section 10-60 of the Illinois Administrative Procedure Act [5 ILCS 100/10-60] shall apply in full to Commission proceedings that are subject to this Part. The provisions of Section

## ILLINOIS COMMERCE COMMISSION

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10-60 shall not apply, however, to communications between Commission employees who are engaged in investigatory or advocacy functions and other parties to the proceeding, provided that such Commission employees are still prohibited from communicating on an ex parte basis, as designated in Section 10-60, directly or indirectly, with members of the Commission, any Hearing Examiner in the proceeding, or any Commission employee who is or may reasonably be expected to be involved in the decisional process of the proceeding.

- b) Any Commissioner, Hearing Examiner, or other Commission employee who is or may reasonably be expected to be involved in the decisional process of a proceeding, who receives, or who makes or knowingly causes to be made, a communication prohibited by Section 10-60 of the Illinois Administrative Procedure Act as modified by Section 10-103 of the Public Utilities Act [220 ILCS 5/10-103], shall place on the public record of the proceeding:

- 1) all such written communications;
  - 2) memoranda stating the substance of all such oral communications; and
  - 3) all written responses and memoranda stating the substance of all oral responses to the materials described in subsections (b)(1) and (2). [220 ILCS 5/10-103]
- c) The material specified in subsection (b) shall be disclosed to the parties of record by service by hand delivery, overnight mail or courier service or telephone facsimile on all parties to the proceeding.

## SUBPART E: POST-COMMENT PROCEDURE

## Section 762.410 Hearing Examiner's Proposed Decision

The Hearing Examiner presiding shall, after the receipt of Initial comments, prepare a proposed decision, including a statement of findings and conclusions and the reasons or basis therefor, on all the material issues presented. Such proposed decision shall be served by the Chief Clerk of the Commission on all parties to the proceeding.

## Section 762.420 Exceptions

- a) The parties may file Exceptions to the Hearing Examiner's proposed decision. Unless otherwise ordered by the Hearing Examiner or the Commission, briefs on exceptions are due no later than 5 days after service of the Hearing Examiner's proposed decision. Replies to Exceptions shall be due no later than 8 days after service of the Hearing Examiner's proposed decision.
- b) Exceptions with respect to statements, findings of fact or rulings of law must be specific and must be stated and numbered separately in the brief. When exception is taken to a statement or finding of fact, a suggested replacement statement or finding must be incorporated.

## ILLINOIS COMMERCE COMMISSION

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Exceptions may contain written arguments in support of the position taken by the party or staff representative filing such exceptions.

## Section 762.430 Oral Argument

The Commission, upon its own motion, may hear oral argument from the parties.

## Section 762.440 Additional Comments

Before issuance of a final order by the Commission, the Hearing Examiner may, on his or her own motion or when directed by the Commission, seek additional written comments from the parties.

## DEPARTMENT OF CORRECTIONS

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Rights And Privileges

2) Code Citation: 20 Ill. Adm. Code 525

3) <u>Section Numbers:</u>	<u>Adopted Action:</u>
525.20	Amend
525.110	Amend
525.130	Amend
525.140	Amend

4) Statutory Authority: Implementing and authorized by Sections 3-2-2 and 3-7-2 of the Unified Code of Corrections [730 ILCS 5/3-2-2 and 3-7-2].

5) Effective Date of Rule(s) (Amendments, Repealer): May 31, 1997

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule (amendment, repealer) contain incorporation by reference?  
No

8) Date Filed in Agency's Principal Office: May 27, 1997

9) Notice(s) of Proposal Published in Illinois Register: February 28, 1997;  
21 Ill. Reg. 2780

10) Has JCAR issued a Statement of Objections to this (these) rule(s)? No

11) Difference(s) between proposal and final version: In Section 525.130, clarified that committed persons who are permitted to send legal and certain other mail when they are without funds will have their trust fund accounts restricted until they are released or discharged for the amount of such postage.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No agreements were necessary.

13) Will this rule (amendment, repealer) replace an emergency rule (amendment, repealer) currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rule(s) (Amendments, Repealer): This rulemaking is necessary to permanently adopt an emergency rule currently in effect regarding the elimination of free postage to committed persons. In addition, letters to and from Department attorneys, while remaining privileged, will no longer be considered legal mail; and visiting rules are being clarified.

## DEPARTMENT OF CORRECTIONS

## NOTICE OF ADOPTED AMENDMENTS

16) Information and questions regarding this adopted rule (amendment, repealer) shall be directed to:

Donald N. Snyder, Jr., Deputy Director  
Department of Corrections  
1301 Concordia Court  
P. O. Box 19277  
Springfield, IL 62794-9277  
217/522-2666, extension 2082

The full text of the Adopted Rule(s) (Amendments) begins on the next page:



DEPARTMENT OF CORRECTIONS  
NOTICE OF ADOPTED AMENDMENTS

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT  
CHAPTER 1: DEPARTMENT OF CORRECTIONS  
SUBCHAPTER e: OPERATIONS

PART 525  
RIGHTS AND PRIVILEGES

SUBPART A: VISITATION

- Section 525.10 Applicability
- 525.12 Definitions
- 525.15 Responsibilities
- 525.20 Visiting Privileges
- 525.30 Clergy Visitation
- 525.40 Attorney Visitation - Adult and Community Services Divisions
- 525.50 Attorney Visitation - Juvenile Division (Court Agreement)
- 525.60 Restriction of Visitors

SUBPART B: MAIL AND TELEPHONE CALLS

- Section 525.100 Applicability
- 525.110 Definitions
- 525.115 Responsibilities
- 525.120 Processing of Mail
- 525.130 Outgoing Mail
- 525.140 Incoming Mail
- 525.150 Telephone Privileges

SUBPART C: PUBLICATIONS

- Section 525.200 Applicability
- 525.202 Definitions
- 525.205 Responsibilities
- 525.210 General Guidelines
- 525.220 Publications Review Committee
- 525.230 Appeal Process for Non-approved Publications

SUBPART D: MARRIAGE OF COMMITTED PERSONS

- Section 525.300 Applicability
- 525.302 Definitions
- 525.305 Responsibilities
- 525.310 Request for Permission to Marry

DEPARTMENT OF CORRECTIONS  
NOTICE OF ADOPTED AMENDMENTS

AUTHORITY: Implementing Sections 3-2-2, 3-7-1, 3-7-2, 3-7-4, 3-8-7, and 3-10-8 of the Unified Code of Corrections [730 ILCS 5/3-2-2, 3-7-1, 3-7-2, 3-7-4, 3-8-7, and 3-10-8] and Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] and authorized by Sections 3-2-2, 3-7-1, and 3-7-4 of the Unified Code of Corrections [730 ILCS 5/3-2-2, 3-7-1, and 3-7-4]. Subparts A and C are also implementing Consent Decrees (Tillman vs. Rowe, #77 C 1008, N.D. Ill., 1977 and Green vs. Sielaff, #71 C 1403, N.D. Ill., 1973 and amended 1976).

SOURCE: Adopted at 8 Ill. Reg. 14598, effective August 1, 1984; amended at 9 Ill. Reg. 10728, effective August 1, 1985; amended at 11 Ill. Reg. 16134, effective November 1, 1987; amended at 12 Ill. Reg. 9664, effective July 1, 1988; amended at 14 Ill. Reg. 5114, effective April 1, 1990; amended at 14 Ill. Reg. 19875, effective December 1, 1990; emergency amendment at 16 Ill. Reg. 3583, effective February 20, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10439, effective July 1, 1992; emergency amendment at 17 Ill. Reg. 1666, effective January 22, 1993; expedited correction at 17 Ill. Reg. 11903, effective January 22, 1993; peremptory amendment at 17 Ill. Reg. 8069, effective May 27, 1993; amended at 20 Ill. Reg. 15960, effective January 1, 1997; emergency amendment at 21 Ill. Reg. 641, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1139, effective MAY 2 1997.

SUBPART A: VISITATION

Section 525.20 Visiting Privileges

- a) The Chief Administrative Officer of each correctional facility shall establish regular visiting hours.
  - 1) All rules and regulations pertaining to visiting shall be posted and made available to visitors and committed persons.
  - 2) Visitors who travel great distances to visit a committed person may request extended visits. These requests should be submitted sufficiently in advance to the Chief Administrative Officer for consideration.
  - 3) Visitors shall be subject to search in accordance with 20 Ill. Adm. Code 501.220.
  - 4) Visitors may be permitted to wear religious headgear if:
    - A) There are no safety or security concerns; and
    - B) The headgear has been removed and thoroughly searched; and
    - C) The visitor has indicated that the headgear has religious significance; and
  - D) Either:
    - i) The headgear is a kufi, yarmulke, turban, habit, or fez; or
    - ii) A written request to wear headgear other than those listed in subsection (a)(4)(D)(i) of this Section was submitted to the Chief Administrative Officer at least ten days prior to the visit and the Chief

## DEPARTMENT OF CORRECTIONS

## NOTICE OF ADOPTED AMENDMENTS

Administrative Officer approved the request. Failure to submit a timely request shall result in denial of the request.

5) All committed persons' visits shall be subject to monitoring and recording at any time by departmental staff, unless prior special arrangements have been made for confidential attorney visits or other privileged visits. For purposes of this Section, a privileged visit means any conversation or communication between visitors that is protected by a privilege of law or by decision, rule, or order of the Illinois Supreme Court. Notices stating that visits are subject to monitoring and recording shall be posted in places in which committed persons are normally permitted to visit and in the committed persons' orientation manual.

6) Visits may be restricted to non-contact visits by the Chief Administrative Officer for reasons of safety, security, and order. This may include, but not be limited to, restricting contact visits for committed persons known or believed to be engaged in gang activity.

b) At the time of admission to a reception and classification center, a committed person shall submit a list of proposed visitors to designated facility staff. A visiting list shall be established after verification, review, and approval by the Chief Administrative Officer. Permission to visit may be denied based on reasons that are reasonably related to legitimate penological concerns. Visitors must be approved in order to visit.

1) Department staff may interview or request background information from potential visitors to determine whether the individual would pose a threat to the safety or security of the facility or any person or to the order of the facility.

2) Visitors 12 years of age or older must be on the approved list in order to visit.

A) An individual 12 years through 16 years of age who is not a member of the committed person's immediate family may be on the approved list only with the written consent of his or her parent or guardian. Immediate family shall include children, brothers, sisters, grandchildren, whether step, adopted, half, or whole, and spouses.

B) When visiting, anyone under the age of 17 years must be accompanied by an approved visitor who is 17 years of age or older, unless prior written approval has been granted by the Chief Administrative Officer.

3) Visitors under 12 years of age need not be on the approved list in order to visit. However, such visits may only be permitted:

A) When accompanied by a parent or guardian who is an approved visitor;

B) When prior written consent has been given by a parent or guardian who is in the free community for the child to visit

## DEPARTMENT OF CORRECTIONS

## NOTICE OF ADOPTED AMENDMENTS

when accompanied by an approved visitor designated in writing who is at least 17 years of age; or

A) As otherwise approved by the Chief Administrative Officer.

4) In determining whether an exception shall be granted pursuant to subsections (b)(2)(B) and (b)(3)(C), the Chief Administrative Officer may consider, among other factors, the proposed visitor's age, emancipation, and relationship to the committed person; whether a legal guardian has been appointed for the proposed visitor; the inability of an approved visitor to accompany the proposed visitor; and any applicable court order.

5) A proposed visitor who has been convicted of a criminal offense or who has criminal charges pending, including, but not limited to, an individual on bond, parole, mandatory supervised release, or probation or an ex-offender, may visit a committed person only with the written approval of the Chief Administrative Officer. In determining whether to approve or deny a request, the Chief Administrative Officer may consider, among other matters, the following:

A) The nature, seriousness, and the date of commission of the offense.

B) The proposed visitor's criminal history.

C) The proposed visitor's relationship to the committed person.

D) The date of discharge from parole, supervision, or probation or of completion of service of a term of incarceration.

6) The visiting list of a committed person may be amended at any time by the Chief Administrative Officer in accordance with this Subpart.

(Source: Amended at 21 Ill. Reg. 7133, effective MAY 2, 1997)

## SUBPART B: MAIL AND TELEPHONE CALLS

## Section 525.110 Definitions

a) "Chief Administrative Officer" means the highest ranking official of a correctional facility.

b) "Department" means the Department of Corrections.

c) "Deputy Director" means the highest ranking official of a division or bureau within the Department or the Chief Deputy Director of the Department.

d) "Director" means the Director of the Department of Corrections.

e) "Incoming privileged mail" means mail from the following:

1) The Director;

2) Deputy Directors and Assistant Deputy Directors of the Department;

3) Department attorneys;

4) Members of the Administrative Review Board;

## DEPARTMENT OF CORRECTIONS

## NOTICE OF ADOPTED AMENDMENTS

- 5)4) Members of the Prisoner Review Board;  
 6)5) The Governor of Illinois;  
 7)6) Federal or Illinois legislators;  
 8)7) Chief Executive Officers of the Federal Bureau of Investigation, the Drug Enforcement Administration, the Criminal Division of the Department of Justice, the United States Customs Service, the Secret Service, the Illinois State Police, and Sheriff's Offices and Police Departments in the State of Illinois;  
 9)8) John Howard Association; and  
 10)9) Legal mail.
- 10)9) "Outgoing privileged mail" means mail to the following:  
 1) The Director;  
 2) Deputy Directors and Assistant Deputy Directors of the Department;  
 3) Department attorneys;  
 4)3) Members of the Administrative Review Board;  
 5)4) Members of the Prisoner Review Board;  
 6)5) The Governor of Illinois;  
 7)6) Federal or Illinois legislators;  
 8)7) Chief Executive Officers of the Federal Bureau of Investigation, the Drug Enforcement Administration, the Criminal Division of the Department of Justice, the United States Customs Service, the Secret Service, the Illinois State Police, and Sheriff's Offices and Police Departments in the State of Illinois;  
 9)8) John Howard Association;  
 10)9) Clerks of courts or of the Illinois Court of Claims; and  
 11)10) Legal mail.

- g) "Legal mail" means mail to and from the following:

- 1) Registered Attorneys, except Department attorneys;
- 2) The Illinois Attorney General;
- 3) Judges or magistrates of any court or the Illinois Court of Claims Judge; and
- 4) Any organization which provides direct legal representation to committed persons, but not including organizations which provide referrals to attorneys, such as bar associations.

(Source: Amended at 21 Ill. Reg. 7139 - effective WAY 27 1991)

## Section 525.130 Outgoing Mail

This Section applies only to the Adult and Juvenile Divisions.

- a) Committed persons shall be permitted to mail at State expense the equivalent of three one-ounce, first-class letters to a destination within the continental United States each week. This allowance may not be transferred from one committed person to another, nor may it accumulate from one week to another.
- a)7) Committed persons shall be permitted to send privileged and

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- non-privileged additional letters at their own expense if they have sufficient funds in their trust fund accounts and attach signed money vouchers to cover the postage. Committed persons with insufficient money in their trust fund accounts to purchase postage shall be permitted to send reasonable amounts of legal mail and mail to clerks of any court or the Illinois Court of Claims, and to certified court reporters, to the Administrative Review Board, and to the Prisoner Review Board at State expense if they attach signed money vouchers authorizing deductions of future funds to cover the cost of the postage. The committed person's trust fund account shall be restricted for the cost of such postage until paid or the committed person is released or discharged, whichever is sooner. All other privileged and non-privileged mail will be sent only if the committed person has sufficient funds to pay the postage.
- b)7) Committed persons must clearly mark all outgoing mail with their name and in the Adult Division with their institutional number. Mail that is not properly marked, including privileged mail, shall be opened and returned to the sender if the sender's identity can be determined. If the sender's identity cannot be determined, the mail shall be destroyed.
- c)7) Outgoing privileged mail must be clearly marked as "privileged" and sealed by the committed person. Outgoing mail which is clearly marked as privileged and addressed to a privileged party may not be opened for inspection except as provided in subsection (d) of this Section.
- d)7) In the Adult Division, outgoing privileged mail shall be examined for dangerous contraband, using an x-ray, fluoroscope, or other similar device. Such examination may be conducted in the Juvenile Division. Outgoing privileged mail may be inspected for dangerous contraband by other means which do not damage the mail and which do not permit the mail to be read. Except in an emergency, outgoing privileged mail shall not be opened, unless there is reasonable suspicion that dangerous contraband is contained therein, legal services is consulted, and the mail is opened in the committed person's presence.
- e)7) With the exception of privileged mail, all mail shall be unsealed when collected or placed in housing unit mailboxes. Sealed mail that is not privileged will be opened and returned to the sender if the sender's identity can be determined. If the sender's identity cannot be determined, the mail shall be destroyed.
- f)7) Each correctional facility shall establish procedures for the collection of outgoing mail. Collections shall be made daily, Monday through Friday, except on State holidays. Every effort shall be made to ensure that mail is delivered to the U.S. Postal Service on the same day.
- g)7) Outgoing non-privileged mail shall be inspected for contraband. If a letter from a committed person is confiscated because it contains contraband, the committed person shall be notified promptly in writing.



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h)†† Department employees may spot check and read outgoing non-privileged mail. Outgoing non-privileged mail or portions thereof may be reproduced or withheld from delivery if it presents a threat to security or safety, including the following:

- 1) The letter contains threats of physical harm against any person or threats of criminal activity;
- 2) The letter contains threats of blackmail or extortion;
- 3) The letter contains information regarding sending contraband into or out of the facility, plans to escape, or plans to engage in criminal activity;
- 4) The letter is in code and its contents cannot be understood by correctional staff;
- 5) The letter violates any departmental rules or contains plans to engage in activities in violation of departmental or institutional rules;
- 6) The letter solicits gifts, goods, or money from other than family members;
- 7) The letter contains information which, if communicated, might result in physical harm to another;
- 8) The letter contains unauthorized correspondence with another committed person; or
- 9) The letter or contents thereof constitute a violation of State or federal law.

i)†† Any outgoing letter may be stopped and returned to the sender if the person to whom it is addressed (or a parent or guardian, if the addressee is a minor or incompetent) has notified the Chief Administrative Officer in writing that the person does not wish to receive mail from the committed person. This rule shall not be construed to prevent committed persons from corresponding with their children unless their parental rights have been terminated.

j)†† If a committed person is prohibited from sending a letter or portions thereof, the committed person shall be informed in writing of the decision.

k)†† Material from a letter which violates subsection (h) †† of this Section may be placed in a committed person's master file.

l)†† Committed persons may not send packages without approval of the Chief Administrative Officer, whose decision shall be based on administrative, safety, and security considerations.

(Source: Amended at 21 Ill. Reg. 7139, effective MAY 27 1997)

## Section 525.140 Incoming Mail

a) Incoming privileged mail must be clearly marked as "privileged" and be clearly marked with the name, title, and address of the sender.

b) Incoming privileged mail may be opened in the presence of the committed person to whom it is addressed to inspect for contraband, to

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verify the identity of the sender, and to determine that nothing other than legal or official matter is enclosed.

c) Incoming privileged mail may contain communications only from the privileged correspondent whose name and address appear on the envelope. If non-privileged material or correspondence from a third party is found to be enclosed, such material shall be treated as non-privileged mail.

d) All incoming non-privileged mail, including mail from clerks of courts, shall be opened and inspected for contraband.

e) Cashier's checks, money orders, and business checks subject to the restrictions imposed by 20 Ill. Adm. Code 205 shall be deposited in the committed person's trust fund account, with a record made of the sender's name, the amount received, and the date. For purposes of this Section a business check shall mean a check written on an employer's agency's or firm's account and any check written on an employer's personal account for wages due a person assigned to the Community Services Division. Committed persons shall be notified of all monies received and deposited in their trust fund accounts. However, any checks or money orders which exceed the limitation on the amounts (20 Ill. Adm. Code 205) shall be returned to the sender, and the committed person shall be notified.

f) Personal checks and cash shall be returned to the sender, and the sender shall be notified that funds cannot be received in that form.

g) Correctional officials may spot check and read incoming non-privileged mail. Incoming mail or portions thereof may be inspected, reproduced, or withheld from delivery for any of the reasons listed in Section 525.130(h)†† of this Subpart or if determined to be obscene by the Publications Review Committee in accordance with Subpart C of this Part.

h) When a committed person is prohibited from receiving a letter or portions thereof, the committed person and the sender shall be notified in writing of the decision.

i) If a committed person has been transferred or released, first class mail shall be forwarded to the person if the address is known. If no forwarding address is available, the mail shall be returned to the sender.

j) If a committed person has been absent from the facility on a furlough or pursuant to writ, the person's mail shall be held at the facility for a period of one month, unless the committed person has made a written request to the Chief Administrative Officer to have the mail forwarded to another address. At the conclusion of the month, first class mail shall be forwarded to the committed person's address, if known, or returned to the sender, unless alternative arrangements have been made.

k) Committed persons may receive publications, including books, periodicals and catalogs, in accordance with Subpart C of this Part, and may receive typewriters ordered directly from a supplier through the commissary. Other packages may be received only as approved by the

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Chief Administrative Officer. All packages shall be opened and searched prior to delivery.

(Source: Amended at 21 Ill. Reg. 7139, effective MAY 21 1997)

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1) Heading of the Part: Alternate Fuels Program

2) Code Citation: 35 Ill. Adm. Code 275

Section Numbers	Proposed Action
275.100	New
275.110	New
275.120	New
275.130	New
275.140	New
275.200	New
275.210	New
275.220	New
275.230	New
275.240	New
App A	New

4) Statutory Authority: Sections 15 of the Alternate Fuels Act 415 ILCS 120/15].

5) Effective Date of Rules: May 29, 1997

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? Yes

8) Date filed in Agency's Principal Office: May 28, 1997

9) Notice of Proposal Published in Illinois Register: January 31, 1997, at 21 Ill. Reg. 1342.

10) Has JCAR issued a Statement of Objections to these rule(s)? No

11) Differences between proposal and final version: The following changes have been made in the final version of the rules:

The vehicle emission standards for low emission vehicles are not included in Appendix A, but are incorporated by reference in Section 275.140. Therefore, the definitions for "Low Emission Vehicle", "Ultra Low Emission Vehicle", and "Zero Emission Vehicle" in Section 275.120 are being amended as follows:

"Low Emission Vehicle" means any LDV, or any HDV with an engine certified to the applicable federal low emission vehicle standard, as set-forth-in-Appendix-A-of-this-Part-and in 40 CFR 88, incorporated by reference in Section 275.140 of this Subpart.

"Ultra Low Emission Vehicle" means any LDV, or any HDV with an engine

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certified to the applicable federal ultra low emission vehicle standard, ~~as set forth in Appendix A of this Part and~~ in 40 CFR 88, incorporated by reference in Section 275.140 of this Subpart.

"Zero Emission Vehicle" means any LDV, or any HDV with an engine certified to the applicable federal zero emission vehicle standard, ~~as set forth in Appendix A of this Part and~~ in 40 CFR 88, incorporated by reference in Section 275.140 of this Subpart.

If an applicant is an employer, its Federal Employer Identification Number is needed before a rebate check may be issued. The proposal was amended to include the abbreviation.

## Section 275.130 Abbreviations

FEIN Federal Employer Identification Number

The following changes were made to Section 275.230 Applications:

a) If the applicant is an individual, we need his/her social security number before a rebate check may be issued. As the payee may be different than the owner of the vehicle, the following amendment needs to be made:

(e) (5) The name, and address, and social security number of the payee for the rebate; and

(6) The signature of the owner ~~and social security number.~~

b) In subsection (d)(1)(B) of Section 275.230, the name of the alternate fuel is requested in the subsection for domestic renewable fuels, this reference is being changed. In addition, in subsection (d)(1)(A), we require applicants for domestic renewable fuel rebates for LDVs to supply the name of the fuel supplier, the same requirement should apply to applicants for domestic renewable fuel rebates for HDVs. The following amendments were made:

(d)(1)(B) For alternate fuel LDV's using biomass fuels and any alternate fuel HDV, the name of the primary fuel supplier(s), the name of the domestic renewable fuel, the number of miles to the gallon for the domestic renewable fuel, the number of miles to the gallon for the conventional fuel, the cost per gallon of the alternate domestic renewable fuel, the cost per gallon of the conventional fuel, and the number of miles driven that calendar year.

c) Subsection (d)(1)(A) asks whether the fuel supplier is public or

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private. This is repetitive as all applicants must already provide this information in subsection (a)(1)(I). The second reference was deleted.

(d)(1)(A) For LDVs using methanol or ethanol, the name of the primary fuel supplier(s) ~~and whether it is a public or private fueling operation from which the domestic renewable fuel is purchased~~, the number of gallons of domestic renewable fuel purchased, and number of miles driven that calendar year; and

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes, the changes have been made.

13) Will these amendments replace emergency rules currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of the Adopted Rules: Section 15 of the Alternate Fuels Act required the Illinois EPA to adopt rules implementing the Alternate Fuels Rebate Program. The rules include eligibility criteria, application procedures, payment priorities, and technical standards. Owners of alternate fuel vehicles will be eligible to apply if they purchase an alternate fuel vehicle, convert a conventionally fueled vehicle, or purchase domestic renewable fuel. The rebate amount will be for up to 80 percent of the differential cost per vehicle, but for no more than four thousand dollars. The proposed rules will apply statewide and preference will be given to owners of small businesses, owners located in the Chicago ozone nonattainment area, and owners who refuel at a public fueling operation.

16) Information and questions regarding these adopted rules shall be directed to:

Rachel L. Doctors  
Assistant Counsel  
Illinois EPA  
2200 Churchill Road  
P.O. Box 19276  
Springfield, Illinois 62704-9276  
(217) 524-3333

The full text of the adopted amendments begins on the next page:



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## TITLE 35: ENVIRONMENTAL PROTECTION

## SUBTITLE B: AIR POLLUTION

## CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

## PART 275

## ALTERNATE FUELS PROGRAM

## SUBPART A: GENERAL PROVISIONS

Section	Purpose
275.100	Other Definitions
275.110	Definitions
275.120	Abbreviations
275.130	Incorporations by Reference
275.140	

## SUBPART B: REBATES

Section	Purpose
275.200	Eligibility
275.210	Alternate Fuel Vehicles and Rebates
275.220	Fuel Cost Differential Rebate
275.230	Applications
275.240	Agency Action
APPENDIX A	Annual Fuel Cost Differential For LDVs

AUTHORITY: Implementing and authorized by Section 15 of the Alternate Fuels Act [415 ILCS 120/15].

SOURCE: Adopted at 21 Ill. Reg. 7150 effective

MAY 2 1997

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

## SUBPART A: GENERAL PROVISIONS

## Section 275.100 Purpose

This Part establishes procedures for applying for an alternate fuel vehicle rebate or domestic renewable fuel rebate as authorized by the Alternate Fuels Act [415 ILCS 120]. Applications for the Alternate Fuels Program may be submitted for calendar years 1997 and 1998, and pre-approved rebates may also be given in fiscal years 1999 and 2000, depending on fund availability.

## Section 275.110 Other Definitions

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Unless otherwise defined herein and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part shall have the meanings specified by 35 Ill. Adm. Code 241.102 and Section 10 of the Alternate Fuels Act [415 ILCS 120/10]. The definitions in Section 275.120 of this Subpart are applicable only to the provisions of this Part.

## Section 275.120 Definitions

"Alternate fuel" means liquefied petroleum gas, natural gas, fuel composed of a minimum 80% ethanol or 80% bio-based methanol, fuels derived from 80% biomass, or electricity.

"Alternate fuel vehicle" means any motor vehicle or engine that meets a federal or CARB emission standard, or meets the federal anti-tampering provisions pursuant to USEPA Memorandum 1A, incorporated by reference at Section 275.140 of this Subpart, is capable of using an alternate fuel, and is operated in the State of Illinois.

"Conventional", when used to modify the word "vehicle", "engine", or "fuel", means gasoline or diesel or any reformulations of those fuels. [415 ILCS 120/10]

"Covered area" means the counties of Cook, DuPage, Kane, Lake, McHenry, and Will and the townships of Aux Sable and Goose Lake in Grundy County and the township of Oswego in Kendall County. [415 ILCS 120/10]

"Domestic renewable fuel" means a fuel produced in the United States composed of a minimum 80% ethanol or 80% bio-based methanol, or other fuels derived from 80% biomass.

"Federal low emission standard" means the low emission vehicle (LEV), ultra-low emission vehicle (ULEV), zero emission vehicle (ZEV), or inherently low emission vehicle (ILEV) standard, as set forth in 40 CFR 88, incorporated by reference in Section 275.140 of this Subpart.

"Gross Vehicle Weight Rating (GVWR)" means the total vehicle weight, including the maximum load, as designated by the original equipment manufacturer.

"Heavy-duty vehicle (HDV)" means a motor vehicle whose GVWR is more than 8,500 lbs.

"Inherently Low Emission Vehicle (ILEV)" means any LDV certified to the applicable ILEV evaporative emission standard found in 40 CFR 88, incorporated by reference at Section 275.140 of this Subpart, or any HDV with an engine certified to the applicable ILEV standard. No dual

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fuelled or flexible fueled vehicle shall be considered an ILEV unless it is certified to the applicable standard(s) (i.e., LEV, ULEV or ZEV) for such weight class on all fuel types for which it is designed to operate.

"Light-duty vehicle (LDV)" means a motor vehicle whose GVWR is no more than 8,500 lbs.

"Location" means a parcel of real property or multiple, contiguous parcels of real property that are separated by private roadways, public roadways, or private or public rights-of-way and are owned, operated, leased, or under the common control of one party. [415 ILCS 120/10]

"Low Emission Vehicle (LEV)" means any LDV, or any HDV with an engine certified to the applicable federal low emission vehicle standard in 40 CFR 88, incorporated by reference in Section 275.140 of this Subpart.

"Owner" means any person who has legal or equitable title to a motor vehicle.

"Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, state, municipality, political subdivision of a state, any agency, department, or instrumentality of the United States, and any officer, agent or employee of any of the above.

"Private fueling operation" means any activity where alternate fuel is transferred from a stationary or mobile source to a fuel storage system used to provide fuel to the engine or motor of that vehicle where such fuel is not available to the public.

"Public fueling operation" means any site where alternate fuel is transferred from a stationary source to a fuel storage system used to provide fuel to the engine or motor of that vehicle, and is a retail operation.

"Retail" means to sell directly to the ultimate consumer in small quantities (e.g., gallons) and deliver fuel to a fuel storage system used to provide fuel to the engine or motor of a vehicle.

"Small fleet owner" means a person who owns or operates no more than 30 motor vehicles and employs 100 or fewer employees.

"Ultra Low Emission Vehicle (ULEV)" means any LDV, or any HDV with an engine certified to the applicable federal ultra low emission vehicle standard in 40 CFR 88, incorporated by reference in Section 275.140 of

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this Subpart.

"Zero Emission Vehicle (ZEV)" means any LDV, or any HDV certified to the applicable federal zero emission vehicle standard in 40 CFR 88, incorporated by reference in Section 275.140 of this Subpart.

## Section 275.130 Abbreviations

Agency	Illinois Environmental Protection Agency
CARB	California Air Resources Board
FEIN	Federal Employer Identification Number
GVWR	gross vehicle weight rating
HDV	heavy-duty vehicle
ILEV	inherently low emission vehicle
LDV	light-duty vehicle
LEV	low emission vehicle
MY	model year
mi/yr	miles driven per year
OEM	original equipment manufacturer
ULEV	ultra low emission vehicle
USEPA	United States Environmental Protection Agency
VEC	vehicle emission configuration
VIN	vehicle identification number
ZEV	zero emission vehicle

## Section 275.140 Incorporations by Reference

The following materials are incorporated by reference and do not contain any subsequent additions or amendments:

- a) Clean Fuel Vehicles, 40 CFR 88.
- b) Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines: Certification and Test Procedures, 40 CFR 86.
- c) Mobile Source Enforcement Memorandum No. 1A: Interim Tampering Enforcement Policy, USEPA (June 25, 1974).

## SUBPART B: REBATES

## Section 275.200 Eligibility

- a) Owners of alternate fuel vehicles may apply for a rebate under this Part by meeting the requirements of either subsection (a)(1), (a)(2) or (a)(3) of this Section and submitting the information required by Section 275.230 of this Subpart to the Agency:

- 1) Converting a conventional vehicle to an alternate fuel vehicle in accordance with the requirements of Section 275.210(a) of this Subpart;
- 2) Purchasing an alternate fuel OEM vehicle or engine in accordance

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standards applicable for the vehicle's model year and weight class. [415 ILCS 120/20]

d) An eligible heavy-duty alternate fuel vehicle must meet the requirements of subsections (d)(1) or (d)(2), and (d)(3) of this Section:

- 1) The conversion system must be the latest model in current production and shall have been tested and certified by USEPA; and
- 2) The OEM vehicle must be certified by USEPA; and
- 3) Notwithstanding the above, engines used in alternate fuel vehicles greater than 8500 pounds GVWR, whether new or remanufactured, shall meet the appropriate United States Environmental Protection Agency emissions standards at the time of manufacture, and if converted, shall meet the standards in effect at the time of conversion. [415 ILCS 120/20]

Section 275.220 Fuel Cost Differential Rebate

a) An owner may apply for a fuel cost differential rebate, if the owner:

- 1) Owns an alternate fuel vehicle(s) that meets the requirements in Section 275.210(a) or (b) of this Subpart, and the alternate fuel vehicle is registered and operated in the State of Illinois; and
- 2) Has purchased domestic renewable fuel to fuel an alternate fuel vehicle(s).

b) As part of the application required pursuant to Section 275.230(d) of this Subpart, the owner must certify to the following:

- 1) The type of alternate fuel vehicle (HDV or LDV);
- 2) The type of domestic renewable fuel on which the vehicle operates;
- 3) That the domestic renewable fuel was used in the vehicle for over one-half of the miles driven annually, and the number of miles driven; and
- 4) That the costs were incurred.

c) An owner approved for a rebate pursuant to Section 275.240 of this Subpart is eligible to receive the rebate for up to 3 consecutive years. To receive the rebate, the owner must:

- 1) Submit the documentation required pursuant to Section 275.230(a), (d) and (e) of this Subpart for each qualifying year.
- 2) Continue to own the alternate fuel vehicle and use domestic renewable fuel for more than one-half of the miles driven. If the alternate fuel vehicle ceases to be registered to the original applicant owner, a prorated installment shall be paid to the owner or the owner's designee and the remainder of the rebate shall be canceled [415 ILCS 120/30(c)] or if domestic renewable fuel is used for less than one-half of the miles driven in the applicable calendar year, the rebate will be canceled for that year.
- 3) Maintain records of domestic renewable fuel purchases for the applicable years. Records must include:

with the requirements of Section 275.210(b) of this Subpart; or

- 3) Purchasing a domestic renewable fuel in accordance with the requirements of Section 275.220 of this Subpart.

b) Notwithstanding subsection (a) of this Section, alternate fuel vehicles owned by the federal government or registered or operated in a state outside of Illinois are not eligible for rebates offered under this Part. [415 ILCS 120/30(d)]

c) Rebates will be given in accordance with the criteria in Section 275.240 of this Subpart. The total amount of all rebates issued in the Alternate Fuel Program for a given calendar year will be limited to the funds available in the Alternate Fuel Fund for that calendar year.

Section 275.210 Alternate Fuel Vehicles and Rebates

A motor vehicle is an alternate fuel vehicle for the purposes of this Part if it meets the requirements of either subsection (a) or (b), and subsection (c) or (d) of this Section:

a) Conversion of a conventional vehicle to an alternate fuel vehicle:

- 1) A conventional vehicle that was not certified to a federal emission standard by the manufacturer as an alternate fuel vehicle, but is subsequently converted in accordance with the requirements of subsection (c) or (d) of this Section and is operated as an alternate fuel vehicle; and
- 2) Conversion of a conventional vehicle to alternate fuel capability must take place in Illinois. [415 ILCS 120/30(a)]

b) Purchase of an OEM alternate fuel vehicle or engine:

- 1) The alternate fuel OEM vehicle or engine, when operated using an alternate fuel, is certified to meet the requirements of subsection (c) or (d) of this Section; and
- 2) A new OEM vehicle or engine must be purchased in Illinois and must either be an alternate fuel vehicle or used in an alternate fuel vehicle. [415 ILCS 120/30(b)]

c) An eligible light-duty alternate fuel vehicle must meet the requirements of either subsection (c)(1)(A), (B), or (C), or (c)(2)(A) or (B), of this Section, and subsection (c)(3) of this Section:

- 1) The conversion systems must be the latest model in current production and shall have been tested and certified by either:
  - A) USEPA; or
  - B) CARB; or
  - C) A conversion system manufacturer using USEPA Memorandum 1A for the specific engine families, incorporated by reference in Section 275.140 of this Part; or
- 2) OEM vehicles must be certified by either:
  - A) USEPA; or
  - B) CARB; and
- 3) Notwithstanding subsections (c)(1) and (c)(2) of this Section, an alternate fuel LDV vehicle must meet or exceed emission



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- A) Receipts of bulk fuel purchases;  
 B) Receipts of fuel purchases from a retail fuel operation; or  
 C) Bill for fuels provided through metered service.
- d) The amount of the annual rebate shall be determined as follows:
- 1) For LDVs using methanol or ethanol fuels, the amount listed in Appendix A of this Part.
  - 2) For LDVs using biomass fuels and any HDV using domestic renewable fuels, the formula below, but in no case will a rebate for the three year period exceed \$4,000:

$$\left( \frac{\text{mi/yr} * f_1/\text{gal} - \text{mi/yr} * f_2/\text{gal}}{\text{mi/gal}_1} \right) * (.80) \frac{\text{mi/gal}_2}{\text{mi/gal}_1}$$

$f(1)/\text{gal}$  = price per gallon in dollars of the domestic renewable fuel  
 $f(2)/\text{gal}$  = price per gallon in dollars of the conventional fuel  
 $\text{mi/gal}[1]$  = number of miles to the gallon on domestic renewable fuel  
 $\text{mi/gal}[2]$  = number of miles to the gallon on the conventional fuel  
 $\text{mi/yr}$  = number of miles driven in the applicable calendar year

## Section 275.230 Applications

To apply for a rebate, owners of alternate fuel vehicles must provide the Agency with the information listed in subsections (a) and (e) of this Section and the information from either subsection (b), (c) or (d) of this Section.

- a) Applications for a conversion, OEM or fuel cost differential rebate must include the following information:
- 1) For each alternate fuel vehicle:
    - A) The make, model and year of manufacture;
    - B) The date of vehicle acquisition or conversion;
    - C) The vehicle identification number (VIN);
    - D) The license plate number and the state of registration;
    - E) The emission standard(s) to which the alternate fuel vehicle is certified (e.g., conventional, LEV, ULEV, ZEV or ILEV) and the certifying agent (e.g., USEPA, CARB, or the Conversion System Manufacturer to Memorandum No. 1A, incorporated by reference in Section 275.140 of this Part);
    - F) The alternate fuel for which the vehicle is certified to meet the requirements of Section 275.210(c) or (d) of this Subpart; ~~and~~
    - G) For LDVs, the 8-character alpha numeric bar-coded vehicle emission configuration number assigned by the manufacturer

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- and imprinted on vehicles manufactured on or after MY 1993;
- H) The GVWR of the vehicle; and
  - I) Whether the vehicle will be primarily fueled at a public or a private fueling operation.
- 2) The amount of the rebate being requested and documentation as required by either subsection (b), (c) or (d) of this Section, demonstrating that the costs were actually incurred and how the rebate amount was calculated.
- b) Applicants for an OEM alternate fuel vehicle rebate, in addition to the information required by subsections (a) and (e) of this Section, must provide the following:
- 1) A copy of the sales invoice showing the purchase price of the alternate fuel vehicle; and
  - 2) Documentation from the retailer indicating the retail cost or sticker price of a conventional fuel vehicle that is the same make, model, equipment and year as the alternate fuel vehicle or engine purchased for which a rebate is being sought under this Part.
- c) Applicants for a conversion alternate fuel vehicle rebate, in addition to the information required by subsections (a) and (e) of this Section, must provide:
- 1) The name and address of the person(s) performing the conversion;
  - 2) A statement that the motor vehicle was converted in accordance with the applicable requirements of Section 275.210(a) of this Subpart; and
  - 3) A copy of the conversion invoice showing the cost of the conversion.
- d) Applicants for a fuel cost differential rebate, in addition to the information required in subsections (a) and (e) of this Section, must provide:
- 1) For the first year:
    - A) For LDVs using methanol or ethanol, the name of the primary fuel supplier(s), the number of gallons of domestic renewable fuel purchased, and number of miles driven that calendar year; and
    - B) For alternate fuel LDVs using biomass fuels and any alternate fuel HDV, the name of the primary fuel supplier(s), the name of the domestic renewable fuel, the number of miles to the gallon for the domestic renewable fuel, the number of miles to the gallon for the conventional fuel, the cost per gallon of the domestic renewable fuel, the cost per gallon of the conventional fuel, and the number of miles driven that calendar year.
  - 2) For the second and third years, the owner must annually certify, once approved, that the owner still owns and operates the alternate fuel vehicle, has purchased domestic renewable fuel, and that domestic renewable fuel was used for more than one-half of the miles driven in that calendar year. The statement must be

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signed by the owner, and must be submitted to the Agency no more than 30 days after the anniversary date of the rebate.

- e) In addition to the information required in subsection (a) of this Section and either subsection (b), (c) or (d) of this Section, all applications submitted to the Agency must include the following:

- 1) The name, address, and phone number of the owner;
  - 2) If the applicant is not an individual:
    - A) The name of the entity, mailing address and location of records if they are different from the information reported in subsection (e)(1) of this Section;
    - B) The number of employees; and
    - C) The FEIN number;
  - 3) The number of motor vehicles owned;
  - 4) The primary location(s) of the vehicles;
  - 5) The name, address and social security number of the payee for the rebate; and
  - 6) The signature of the owner.
- f) Applications for costs incurred during calendar years 1997 and 1998 that meet the requirements of this Section and either Section 275.210 or 275.220 of this Subpart must be submitted by December 31 of that calendar year, but may be submitted earlier.

## Section 275.240 Agency Action

- a) The Agency shall review and approve applications that meet the requirements of Section 275.230 of this Subpart in June and December of fiscal years 1998, 1999 and 2000, consistent with fund availability and prioritization as set forth in subsections (b), (c) and (d) of this Section.

- b) The Agency shall establish priority classes for rebate applications for rebates in the following order:

- 1) Vehicles of small fleet owners located in the covered area that refuel at a public fueling operation;
- 2) Vehicles of small fleet owners located outside of the covered area that refuel at a public fueling operation;
- 3) Other vehicles located in the covered area that refuel at a public fueling operation;
- 4) Other vehicles located outside of the covered area that refuel at a public fueling operation;
- 5) Vehicles of small fleet owners located in the covered area that refuel at a private fueling operation;
- 6) Vehicles of small fleet owners located outside of the covered area that refuel at a private fueling operation;
- 7) Other vehicles located in the covered area that refuel at a private fueling operation;
- 8) Other vehicles located outside of the covered area that refuel at a private fueling operation and all other vehicles.

- c) In addition to the priorities in subsection (b) of this Section, the

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED RULE

Agency shall further sub-prioritize applications within a priority class by giving an alternate fuel vehicle that is federally certified or CARB certified to an ILEV, LEV, ULEV or ZEV emission standard higher priority within their priority class as determined by subsection (b) of this Section.

- d) In addition to the priorities in subsections (b) and (c) of this Section, the Agency shall further prioritize applications within a sub-priority class as determined by subsection (c) of this Section by giving applications priority in the order in which the application was received.

- e) Notwithstanding subsections (b) and (c) of this Section, rebate amounts shall be limited by the following criteria:

- 1) An owner may receive only one type of rebate per alternate fuel vehicle either for the conversion, OEM, or the fuel cost differential. An alternate fuel vehicle is eligible for only one rebate.
- 2) An owner of an alternate fuel vehicle may receive rebates for no more than 150 alternate fuel vehicles per location and no more than 300 alternate fuel vehicles total for all locations.
- 3) Rebates for OEMs or conversions of conventional vehicles are limited to \$4,000 per vehicle or 80% of the cost of either subsection (e)(3)(A) or (e)(3)(B) of this Section, whichever is less:
  - A) The cost of converting a conventional vehicle to an alternate fuel vehicle; or
  - B) The additional cost of purchasing an OEM alternate fuel vehicle or engine versus a conventional renewable fuels will be determined in accordance with Section 275.220(d) of this Subpart, but in no case will a rebate for the three year period exceed \$4,000.
- f) Rebates in any period will be limited to the funds available in the Alternate Fuel Fund for the applicable period.
- g) The Agency shall notify owners of whether their application for a rebate has been approved or held over to a subsequent period within 90 days after the end of the applicable period. Applications held over retain their priority as determined by subsections (b), (c) and (d) of this Section.

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED RULE

## Section 275.APPENDIX A Annual Fuel Cost Differential For LDVs

ANNUAL MILES	ETHANOL FUEL (in dollars)	METHANOL FUEL (in dollars)
>17,500 mi/yr	450	525
≤17,500 mi/yr	340	390

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: The Illinois Oil and Gas Act2) Code Citation: 62 Ill. Adm. Code 2403) Section Number: Adopted Action:

240.10	Amend
240.131	Amend
240.132	Amend
240.133	Amend
240.160	Amend
240.180	Amend
240.190	Amend
240.210	Amend
240.230	Amend
240.250	Amend
240.251	New
250.255	Amend
240.380	Amend
240.385	New
240.420	Amend
240.455	Amend
240.460	Amend
240.465	Amend
240.470	Amend
240.530	Amend
240.540	Amend
420.550	Amend
240.605	New
240.610	Amend
240.630	Amend
204.640	Amend
240.710	Amend
240.760	Amend
240.780	Amend
240.860	Amend
240.861	Amend
240.862	New
240.890	Amend
240.891	Amend
240.895	Amend
240.900	New
240.906	Amend
240.926	New
240.1110	Amend
240.1130	Amend
240.1131	New
240.1410	Amend
240.1450	Amend



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240.1460 Amend  
240.1470 New  
240.1480 Amend  
240.1500 Amend  
240.1600 Amend  
240.1610 Amend  
240.1620 Amend  
240.1630 Amend  
240.1635 New  
240.1640 Amend  
240.1710 Amend  
240.1820 Amend  
240.1852 New  
240.1940 Amend

4) Statutory Authority: Implemented and authorized by Section 6 of the Illinois Oil and Gas Act [225 ILCS 725/6].

5) Effective Date of Amendments: June 3, 1997

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporation by reference? No

8) Date filed in Agency Principal Office: June 3, 1997

9) Notice(s) of Proposal published in Illinois Register: 20 Ill. Reg. 13699 - October 25, 1996

10) Has JCAR issued a Statement of Objection to these rules? No

11) Difference(s) between proposal and final version: In Section 240.10, in the definition of "Act", deleted "et seq."; in the definition of "Department", "Enhanced Oil Recovery", "Orphan Well", "Owner", "Permit", "Permittee", "Person", "Pool", changed the ILCS site to "(Section 1 of the Act)"; in the definition of "Liquid Oilfield Waste", changed the ILCS site to "(Section 8c of the Act)"; the definition of "The Act" has been stricken.

In Section 240.131(a), Section "23.2 et seq." has been stricken and "23.3" has been added; in subsection (a)(4)(D) and (a)(12)(F), the Ill. Rev. Stat. and ILCS cite have been stricken; in subsection (b)(1), "et seq." has been stricken; in subsection (c)(1) and (c)(1)(B), the Ill. Rev. Stat. and ILCS cite have been stricken and "(Section 23.4 of the Act)" has been added; in subsection (j)(1), "within 30 days of the hearing", "of" has been replaced with "after"; in subsection (j)(2)(F), the Ill. Rev. Stat. and ILCS cite have been changed to "(Section 23.5 of the Act)"; in subsection (j)(4), "(Section 23.6 of the Act)" has been added; in

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subsection (k), the Ill. Rev. Stat. and ILCS cite has been changed to "(Section 23.8 of the Act)".

In Section 240.132(j)(5), the Ill. Rev. Stat. and ILCS cite have been changed to "(Section 22.2 of the Act)".

In Section 240.133(a)(1), the Ill. Rev. Stat. and ILCS cite have been changed to "(Section 21.1 of the Act)"; in subsection (c)(3)(A), "subsection" has been added before "(a)(2)(B)"; in subsection (c)(4), "(c)" has been added after "subsection"; in subsection (j)(3), the Ill. Rev. Stat. and ILCS cite have been replaced with "(Section 21.1 of the Act)"; in subsection (j)(5) and (7), "(j)" has been added before "(3) above"; in subsection (j)(9), the Ill. Rev. Stat. and ILCS cites have been replaced with "(Section 21.1 of the Act)".

In Section 240.160(b)(4), the Ill. Rev. Stat. and ILCS cite have been replaced with "(Section 8a of the Act)"; in subsection (c)(1), "\$250.00" has been changed to "\$250"; in subsection (c)(1)(A)(i) through (iv), (c)(1)(B)(i) through (iii), (c)(2), (c)(2)(A)(i) through (iii), (c)(2)(B)(i) through (ii) and (c)(3), the cents have been stricken; in subsection (c)(3), "or the rules adopted hereunder" have been deleted and replaced with "this Part", "(Section 19.1 of the Act)" has been added after "violation"; in subsection (c)(3)(A)(i) through (ii), (c)(3)(B)(i) through (ii) and (c)(3)(C)(i) through (iii), the cents have been stricken; in subsection (d) and (j), the Ill. Rev. Stat. and ILCS cites have been replaced with "(Section 8a of the Act)"; in subsection (f) and (i), "30 days of service", the "of" has been changed to "after".

In Section 240.180(a) and (c), the ILCS cite has been replaced with "(Section 8a of the Act)"; in subsection (c)(1), a ":" has been added after "conference" and an "A" has been added before "shall" and "within 30 days of the request", "of" has been changed to "after"; (c)(1)(A) through (E) has been relettered to (i) through (v) and (F) and (G) have been relettered to (B) and (C) respectively; in new subsection (C), "fifteen (15) days of service" has been changed to "15 days after service"; in subsection (d), the ILCS cite has been changed to "(Section 8a of the Act)".

In Section 240.190(a), the ILCS cite has been changed to "(Section 8a of the Act)" and "14 days of service" has been changed to "14 days after service"; in subsection (b), the ILCS cite has been changed to "(Section 19.1 of the Act)"; in subsection (c), "Sections 10-25, 10-35, 10-40, 10-50 and 10-60" has been changed to "Article 10"; and in subsection (d), "within 7 days of the close" has been changed to "within 7 days after the close".

In Section 240.210(b) and (d), the cents have been stricken; in subsection (c), "sixty (60) days" has been changed to "60"; in subsection (d), the

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ILCS cite has been stricken and replaced with "(Section 12 of the Act)".

In Section 240.250(b)(4), the ILCS cite has been changed to "(Section 8a of the Act)"; in subsection (c), "two (2) years" has been changed to "2 years".

In Section 240.251(a)(6), the ILCS cite has been changed to "(Section 8a of the Act)"; in subsection (b), "of their intent to revoke a permit effective thirty (30) days" has been changed to "the Department's intent to revoke a permit effective 30 days"; in subsection (c), "within thirty (30) days of the date of notice" has been changed to "within 30 days of the date after notice"; in subsection (c)(1), "within fifteen (15) days of the receipt" has been changed to "within 15 days after the receipt"; in subsection (c)(1)(A)(ii), the comma after "stipulations" has been changed to "and"; in subsection (e), "Within thirty (30) days" has been changed to "Within 30 days".

In Section 240.255, in the title after "Conversion", "of a Production Well" has been added and the text has been changed to read "Production wells may not be converted to water wells requiring a permit from the Illinois Department of Public Health".

In Section 240.380(a), "Rules" has been changed to "this Part"; in subsection (b)(3), "or" has been deleted; in subsection (b)(4), the ILCS cite has been changed to "(Section 8a of the Act)"; in subsection (c), "not to exceed one (1) year" has been changed to "not to exceed 1 year"; in subsection (g), "effective thirty (30) days" has been changed to "effective 30 days"; in subsection (h) and (h)(1), "within thirty (30) days" and "within fifteen (15) days" has been changed to "within 30 days" and "within 15 days"; in subsection (h)(2), "at 300 West Jefferson Street, Suite 300" has been stricken and replaced with "in"; in subsection (j), "Within thirty (30) days" has been changed to "Within 30 days".

In Section 240.385, in the title after "Conversion", "of a Class II Well" has been added, and the text has been changed to read "Class II Wells may not be converted to water wells requiring a permit from the Illinois Department of Public Health."

In Section 240.420, where a number is written out followed by the number in parenthesis, the number written out and the parenthesis have been stricken; in subsection (d)(3), "shall be" has been replaced by "is".

In Section 240.455(a), "Subpart" has been capitalized.

In Section 240.460(b), "Petition" has been changed to "petition"; subsection (d), "one-half (1/2) mile" has been changed to "1/2 mile" and "ten (10) days" has been changed to "10 days".

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In Section 240.465(b), "Petition" has been changed to "petition".

In Section 240.470(c)(1) through (12), "(10)" has been stricken.

In Section 240.530(b), new language "except as provided in subsection (a) above," has been deleted.

In Section 240.540(a), "within six (6) months" has been changed to "within 6 months", the stricken word "lines" has been deleted and "liner" has been put back as existing language and "five (5) feet below" has been changed to "5 feet below"; in subsection (c), "within six (6) months" and "within ninety (90) days" has been changed to "within 6 months" and "within 90 days" respectively.

In Section 240.610(a), "the Effective Date of this Section" has been stricken and "May 13, 1994" added; in subsection (a)(1) "one hundred (100) feet, or fifty (50) feet" has been changed to "100 feet or 50 feet"; in subsection (a)(2), "twenty-four (24) hours" has been changed to "24 hours"; in subsection (a)(4), "four (4) hours" has been changed to "4 hours"; in subsection (b), "the Effective Date of this Section" has been stricken and replaced with "May 13, 1994" and "two hundred fifty (250) feet" and "fifty (50) feet" has been changed to "250 feet" and "50 feet" respectively; in subsection (c)(1)(A), "two hundred fifty (250) feet" has been changed to "250 feet"; in subsection (c)(2), "the effective date of this Section" has been stricken and replaced with "May 13, 1994"; in subsection (d), "two hundred (200) feet" and "twenty four (24) hours" has been changed to "200 feet" and "24 hours" respectively.

In Section 240.630(c) and (e), "two (2) years" and "five (5) feet" has been changed to "2 years" and "5 feet" respectively.

In Section 240.640(a)(2), (3) and (4), "within thirty (30) days" has been changed to "within 30 days"; subsection (d)(1), "ten feet (10') has been changed to "ten feet"; subsection (d)(2), "one-half (1/2) mile" has been changed to "1/2 mile".

In Section 240.710(a)(1), "one hundred (100) feet, or fifty (50) feet" has been changed to "100 feet, or 50 feet"; subsection (a)(2), "twenty-four (24) hours" has been changed to "24 hours"; subsection (a)(4), "four (4) hours" has been changed to "4 hours"; subsection (a)(5)(A), (B) and (C), the word "freshwater" has been changed to "fresh water"; subsection (b), "two hundred fifty (250) feet" and "fifty (50) feet" has been changed to "250 feet" and "50 feet" respectively.

In Section 240.760(b), "two hundred (200) feet", "fifty (50) feet" and "one hundred (100) feet" has been changed to "200 feet", "50 feet" and "100 feet" respectively; subsection (c) "freshwater" has been changed to "fresh water"; subsection (d) "twenty-four (24) hours" has been changed to

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"24 hours"; subsection (e)(6) "five (5) years" has been changed to "5 years"; subsection (f) "of the effective date of this Section" has been stricken and replaced with "after July 14, 1995" and "four (4) years" and "four years" has been changed to "4 years"; subsection (g) "twenty-four (24) hours" has been changed to "24 hours"; subsection (g)(1) "five (5) percent" has been changed to "5 percent".

In Section 240.780(a)(2) and (3) "thirty (30) days" has been changed to "30 days"; subsection (d)(1) "ten (10) feet" has been changed to "10 feet"; subsection (d)(2) "one-half (1/2) mile" has been changed to "1/2 mile".

In Section 240.860(d) "five (5) years after" has been changed to "within 5 years after"; subsection (e)(3)(B) "five (5) feet" has been changed to "5 feet".

In Section 240.861(e) "five (5) days" has been changed to "5 days".

In Section 240.862 (a)(2) the word "and" has been added at the end of the sentence; subsection (b)(2) "agriculture" has been changed to "agricultural"; subsection (c) "permittee" has been changed to "permittee" and "within six (6) months" has been changed to "within 6 months".

In Section 240.890 (d), after the word "disposed", "of" has been added; subsection (g) "and or" has been changed to "and/or"; subsection (g)(1), (2) and (3) semi-colons have been added to the end of the sentence.

In Section 240.891 (a)(1)(C) "four (4) inches" and "twelve (12) inches" has been changed to "4 inches" and "12 inches" respectively; subsection (c)(1) and (c)(2)(B) "five hundred (500) cubic feet" has been changed to "500 cubic feet"; subsection (d)(5) "within ten (10) days" has been changed to "within 10 days"

In Section 240.900 "Oil Field" has been changed to "Oilfield"; the ILCS cite has been changed to "(Section 8c of the Act)"; in the definition of "System Facility", "oil field" has been changed to "oilfield" and "temporary" has been changed to "temporarily".

In Section 240.906(b) and (c), "\$100.00" has been changed to "\$100" and "sixty (60) days" has been changed to "60 days".

In Section 240.926(a) and (g) the ILCS cite has been changed to "(Section 8c of the Act)".

In Section 240.1110 in the definition of "Cement", "fourteen and five tenths (14.5)" has been changed to "14.5"; in the definition on "Inactive Well", "twenty-four (24) consecutive" has been changed to "24 consecutive"; in the definition of "Mud", "forty-five (45) seconds" has

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been changed to "45 seconds".

In Section 240.1130(c)(4) "subsection" has been added before "(c)(6) and (7)"; in subsection (c)(6) and (7) "one hundred (100) feet" has been changed to "100 feet"; subsection (c)(6) "(c)" has been added before "(7)(B) or (C) below"; subsection (c)(7)(A), "(c)" has been added before "(6) above"; subsection (c)(7)(B) "five (5) years" has been changed to "5 years"; subsection (d) "ninety (90) days" has been changed to "90 days"; subsection (e) and (f) "five (5) year" has been changed to "5 year"; subsection (g) "one (1) year" has been changed to "one year".

In Section 240.1131(b) and (c), the parenthesis after "Well" has been deleted; semicolons have been added to (b)(1) through (3); subsection (b)(2) "five (5) years" has been changed to "5 years"; subsection (c) "within six (6) months" has been changed to "within 6 months" and "permittee" has been changed to "permittee"; subsection (d) "permittee" has been changed to "permittee"; "within thirty (30) days of" has been changed to "within 30 days after"; subsection (d)(1) "fifteen (15) days of" has been changed to "15 days after"; subsection (d)(1)(A)(i) the comma after stipulations has been replaced with "and"; second subsection "(b)" has been corrected to "(e)" and "permittee" has been changed to "permittee" and "subsection (a) above" has been changed to "subsection (b) above; second subsection (c)" has been corrected to "(f)" and "Within thirty (30) days after"; second subsection "(d)" has been corrected to "(g)" and "person" has been changed to "person's" and "permittee's" has been changed to "permittee's" and "Within thirty (30) days of" has been changed to "Within 30 days after".

In Section 240.1410(a) "(Permittee)" has been changed to "(permittee)"; subsection (a)(2) and (4) "well(s)" has been changed to "wells"

In Section 240.1460(a)(4) the ILCS cite has been changed to "(Section 8a of the Act)"; subsection (c) "rules" has been changed to "this Part"; subsection (d) "Nothing in this subsection shall" has been changed to "Nothing in this subsection (d) shall"; subsection (e) "rules" has been changed to "this Part"

In Section 240.1470(a)(5) the ILCS cite has been changed to "(Section 8a of the Act)"; subsection (b) "effective thirty (30) days" has been changed to "effective 30 days".

In Section 240.1500(a)(3)(C) "two (2)" has been changed to "2"; subsection (b) "oil field" has been changed to "oilfield".

In Section 240.1600 in the definition of "Abandoned Well", "two (2) years" has been changed to "2 years".

In Section 240.1610(c) and (d) "within thirty (30) days" has been changed



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- to "within 30 days".
- In Section 240.1620(d) "in" has been stricken and replaced with "under".
- In Section 240.1640(c) "for a period of two (2)" has been changed to "for a period of 2".
- In Section 240.1710(d)(1) and (2) "Permittee" has been changed to "permittee".
- In Section 240.1820(a)(3) "fifteen (15) days" has been changed to "15 days"; subsection (b)(6) "Within thirty (30) days" has been changed to "Within 30 days"
- Section 240.1852(a) "Section" has been added before "240.610(a)"
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will this amendment replace an emergency rule currently in effect? No

- 14) Are there any amendments pending of this Part? No

- 15) Summary and purpose of amendments: Section 240.10 has been amended to achieve six objectives. First, the definition of "Department" has been added to reflect the merger of the Department of Mines and Minerals into the newly established Department of Natural Resources. Secondly, a definition of "Division" has been added to reflect the location of the Division of Oil and Gas within the Office of Mines and Minerals in the newly established Department of Natural Resources. Next, the definition of "General Oilfield Waste" has been amended to include the unused portion of chemicals in the chemical container and to clarify that these types of wastes are regulated under the federal Resource Conservation and Recovery Act, and to remove wastes not under the jurisdiction of the Act. Fourth, the definition of "Owner" has been amended to more accurately reflect the intent of the Illinois Oil and Gas Act and to clarify that an operating agreement between the owners and the oil operator will meet the definition of owner as intended by the Act. Fifth, the definition of "permit" has been amended to ensure conformity with the Illinois Oil and Gas Act. Sixth, the definition of "Permittee" has been revised to reflect consistency with the Illinois Oil and Gas Act.

Section 240.131 has been amended to achieve three objectives. First, a provision has been added to reflect recent amendments to the Illinois Oil and Gas Act that requires control of only 51% of the working interest underlying the unit area in order for the operator to petition the Department to establish a secondary recovery unit. Secondly, a generic office location has been identified to accommodate the possibility that

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the Division of Oil and Gas, Office of Mines and Minerals may move relative to the creation of the Department of Natural Resources. Third, a new subsection has been added to establish the time by which the Department is required to return a deficient petition that requests formation of a unit.

Section 240.132 is being amended to achieve two objectives. First, a generic office location is identified to address the possibility that the Division of Oil and Gas, Office of Mines and Minerals could move relative to the creation of the Department of Natural Resources. Next, a new subsection has been added to clarify the time within which the Department must return a deficient petition that requests formation of a unit.

Section 240.133 has been amended to achieve two objectives. First a generic office location is designated for the Division of Oil and Gas, Office of Mines and Minerals. Second, a new subsection is added to clearly establish the period in which the Department is required to return a deficient petition requesting formation of a unit.

Section 240.160 has been amended to incorporate enforcement provisions of the Illinois Oil and Gas Act.

Section 240.180 has been amended to accomplish three objectives. First the requirement that interest be paid on civil penalties held in escrow pending the outcome of a requested hearing is deleted. Next, the requirement that funds be paid into an escrow account is removed. Lastly, the location of the Office is amended to reflect the potential for relocation as a result of the merger into the new Department of Natural Resources.

Section 240.190 has been amended to achieve two objectives. First, current statutory citations are inserted. Second, a generic office location is designated to accommodate any possible relocation due to the merger of the Department of Mines and Minerals into the new Department of Natural Resources.

Section 240.210 has been amended to reflect the correct citation in Department Rules where the requirements for bonding are contained and to insert the current statutory citation dealing with the permitting of pre-law wells.

Section 240.230 has been amended to require individuals, partnerships or other unincorporated entities that are not residents to submit to the jurisdiction of the courts of this State by irrevocably consenting to be sued in Illinois.

Section 240.250 has been amended to accomplish three objectives. First, language pertaining to reasons for the denial of drilling permits has been

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revised to closely track with current statutory provisions contained within the Illinois Oil and Gas Act. Second, Section 240.250(e), concerning requirements for engaging in off-site drilling due to lost wells, has been deleted from this Section and moved to Section 240.420(d) to ensure subject compatibility. Third, provisions related to permit revocations and objections thereto are removed from this Section and inserted into Section 240.251.

Section 240.251 has been added to achieve three objectives. First, provisions that clearly establish reasons for permit revocation, including applicable recently adopted statutory language, are inserted. Next, the Department is required to provide thirty days notice prior to revoking a permit, and a thirty day period is granted to permittees to request a hearing to contest the revocation. Third, procedural guidelines for holding pre-hearing conferences and formal hearing proceedings are established.

Section 240.255 has been added to clarify that conversion of production wells to water wells that are required to be permitted by the Illinois Department of Public Health is prohibited.

Section 240.380 has been amended to accomplish three objectives. First, applicable statutory language related to the denial of drilling permits has been incorporated. Secondly, a new provision has been added to clearly state that applicants on whose behalf unpaid funds have been obligated from the Plugging and Restoration Fund for well plugging activities are ineligible for the issuance of drilling permits if the applicant was a previous permittee or an owner of more than 5% interest in a previous permittee on whose behalf such unpaid funds were expended. Third, delinquency in payment of annual well fees is added as cause for the denial of a drilling permit.

Section 240.385 has been added to clarify current provisions of the Illinois Oil and Gas Act which prohibits Class II wells from being converted to water wells unless a permit is obtained from the Illinois Department of Public Health, which has jurisdiction over the permitting of water wells.

Section 240.420 has been amended to add a new subsection (d), as the location of rules moved from Section 240.250 (e) pertaining to permissible off location drilling in the event of lost wells.

Section 240.455 has been amended to accomplish three objectives. First, a definition of a horizontal well has been added. Second, permissive language has been added to allow a well with multiple drain holes to be considered a single well. Third, the word "horizontal" has been inserted to clarify the type of well being discussed in this Section.

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Section 240.460 has been amended to accomplish four objectives. First, the requirement that a petition for creation of a modified drilling be based on geologic or engineering characteristics of the reservoir is clearly stated. Next a new subsection has been added to clarify the requisite contents of a petition to establish a modified drilling unit. Third, this Section is amended to reflect generic office locations in the event of future office moves result due to the establishment of the new Department of Natural Resources. Fourth, a time frame is established for the Department to return deficient petitions that request completion of a modified drilling unit.

Section 240.465 has been amended to achieve four objectives. First it is clarified that upon proper application the Department must schedule a hearing to determine the creation of a special drilling unit. Second, the parameters which govern establishment of a special drilling unit relative to other Department well spacing regulations are clearly defined. Third, a new subsection has been added to identify the required contents of the petition submitted to the Department requesting the creation of a special drilling unit. Fourth, this Section is amended to specify that petitions requesting the creation of a special drilling unit will be handled in accordance with standard hearing provisions contained in other Sections of the Oil and Gas Rules.

Section 240.470 has been amended to add a new subsection (c)(12) to reflect the creation of pool-wide drilling units for an oil pool in Washington County as a result of a recent hearing and Order issued by the Department.

Section 240.530 has been amended to achieve two objectives. First, the storage and storage handling provisions for completion fluids are clarified by deeming that only pits used to store completion fluids temporarily at well sites prior to their use in completion activities are required to be lined. Secondly, a provision has been inserted to state that a pit used for temporary storage of completion fluids need not be lined.

Section 240.540 has been amended to clarify the requirement that an additional liner be placed over a folded liner to ensure protection against the infiltration of surface and ground water.

Section 240.550 has been amended to broaden the applicability of the Section to include wastes other than general oilfield wastes and to reflect that the disposal of general oilfield wastes is governed by the federal Resource Conservation and Recovery Act of 1976.

Section 240.605 has been added to require timely notification to the Department when a previously plugged well is re-drilled.

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Section 240.610 has been amended to clearly state that the use of alternative surface casing by an oil operator requires notification to the Department before the alternative method is used.

Section 240.630 has been amended to indicate a proper administrative rule citation.

Section 240.640 has been amended to achieve three objectives. First, the types of well activities that require the submission of a completion report are clearly identified. Next, a thirty day period from the expiration of a conversion permit is established for filing Well Completion Reports for unconverted wells. Third, subsection (c) has been amended to clarify the type of logs required to be submitted to the State Geological Survey in accordance with the current provisions of the Illinois Oil and Gas Act.

Section 240.710 has been amended to require oil operators that use alternative surface casing provide prior notification to the Department before using the alternative method.

Section 240.760 has been amended to allow alternative construction methods in the operation of Class II wells in the event these methods are approved by the U.S. Environmental Protection Agency.

Section 240.780 has been amended to accomplish two objectives. First, the types of logs required to be submitted to the State Geological Survey are specified. Second, it is made clear that, in accordance with applicable statutory guidelines, only additional drilling requires the submission of a log on an existing well.

Section 240.860 has been amended to achieve four objectives. First, the definition of a pit is clarified. Second, pit closure requirements have been modified to acknowledge previously adopted pit closure exemptions contained in Section 240.861 and proposed exemptions detailed in new Section 240.862. Third, provisions related to synthetically lined pits are deleted. Fourth, time frames previously established for the closure of pits are further delineated.

Section 240.861 has been amended to achieve two objectives. First, the title is changed to clearly identify the nature of the subject pit exemption. Secondly, specific remedial procedures are established for addressing pit liner leaks.

Section 240.862 has been added to accomplish three objectives. First, it provides a procedural mechanism for exempting from closure existing "old" production fluid storage pits by setting forth applicable criterion for exemption from closure, including non-use of the pit, meeting minimal acceptable water quality standards, and the submittal from the surface

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owner of a notarized statement that requests that the pit remain open and demonstrates an acceptable alternate use. Second, it establishes factors the Department must consider when determining whether to grant an exemption to a pit's required closing, including the pit's location relative to ongoing production activities, the proposed alternative use relative to public health considerations, and the pit's potential use for agricultural purposes or wildlife habitat. Third, a requirement is imposed that a pit be closed within six months following the Department's denial of a closure exemption.

Section 240.890 has been amended to accomplish two objectives. First, subsection (d) is newly added to clearly indicate applicable rules governing the remediation or removal of soil contaminated as a result of crude oil spills. Next, the circumstances and parameters under which the Department shall order additional crude oil spill cleanup actions are clarified, and consideration factors, including the aerial extent of the spill, proximity of water sources, soil type, current land use and TPH content in the spill area, are expressly set forth.

Section 240.891 has been amended to achieve two objectives. First the Section title and subsection (a) are changed to indicate the inclusion of remediation in the Section. Second, subsections (c)(2) (B) and (C) are changed to clarify the area in which land spreading crude oil spill waste can take place and to clearly prohibit landspreading of oilfield waste on areas not contaminated by the initial spill event.

Section 240.895 has been amended to accomplish two objectives. First, soil removal is expressly included as a possible additional remedial cleanup action. Second, various nonsubstantive grammatical changes pertaining to soil and waters are made.

Section 240.900 has been added to ensure standardized definitions exist for the terms "Liquid Oilfield Waste Transportation System", "System Facility" and "Vehicle" (adopts the definition previously contained in Section 240.906).

Section 240.906 is being amended to delete the definition for "Vehicle" (see comment to Section 240.900 above).

Section 240.926 has been added to achieve six objectives in adopting requirements for permit issuance and establishing operating requirements for Liquid Oilfield Waste Transportation Systems in accordance with provisions of the Illinois Oil and Gas Act. First, a requirement is mandated that all vehicles, hauling Liquid Oilfield Wastes and associated piping and valves, be kept in leak free condition; and statutory criminal sanctions (including fines and incarceration) for any unauthorized gathering, transportation or disposal of such wastes are expressly adopted. Second, permissible disposal and storage methods are



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established, and the release of Liquid Oilfield Wastes onto the ground surface or into freshwater or water drainage-ways is prohibited. Next, commingling liquid oilfield wastes with non-exempt wastes is clearly prohibited. Fourth, operators and other persons that need to have liquid oilfield wastes hauled are required to employ only permitted haulers to transport such substances. Fifth, standards for revocation of Liquid Oilfield Waste Transportation and Vehicle permits are clearly established, including the express adoption of pertinent statutory provisions. Finally, bond forfeiture provisions are added.

Section 240.1110 has been amended to achieve two objectives. First, the definition of "Cement" has been amended to incorporate the actual cement standard used in the field. Next, the definition of "Producing Lease or Unit" has been added to clarify that such terms entail property upon which the active production and sale of oil has occurred within a prior twelve month period.

Section 240.1130 has been amended to accomplish five objectives. First, the term "temporary abandonment" is deleted throughout and changed to "Future Use" to reflect clarity in the purpose of retaining a well for use in secondary recovery operations. Secondly, applicable time frames for initial and subsequent designations of Future Use status are clearly delineated, and plugging or conversion requirements for Class II UIC wells whose Future Use status has expired are established. Third, provisions prohibiting the reactivation of temporarily abandoned wells are deleted. Fourth, requirements for terminating Future Use status are detailed. Fifth, criteria for reactivation of injection and disposal wells are clearly stated.

Section 240.1131 has been newly added to accomplish four objectives. First, a provision is added that permits an automatic annual extension of Future Use status beyond the initial five year limit outlined in Section 240.1130 for wells that meet established equipment and water level standards and that are located on a producing lease or unit. Second, a mechanism is provided for granting extended Future Use status to wells located in non-producing units or on non-producing leases. Third, a requirement is inserted that wells not approved for Future Use status be plugged within 6 months from the date of such denial, unless a hearing on the issue is requested. Fourth, a comprehensive hearing procedure for oil operators to challenge Future Use extension denials is provided, with defined deadlines for submittal of hearing requests, scheduling pre-hearing conferences, and the issuance of final decisions.

Section 240.1410 has been amended to clarify that a Trustee or Receiver is required to be a Permittee of a well when the appointment to such office by a court includes the concurrent right to drill and/or produce the well, along with the right and responsibilities for operating the well.

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Section 240.1450 has been amended to correct a clerical oversight by inserting the word "documentation" to denote the type of evidence to be submitted in support of an ownership transfer.

Section 240.1460 has been amended to achieve seven objectives. First, restrictions on permit transfer have been broadened by the insertion of pertinent statutory language identifying ineligible permittees. Secondly, a new provision has been added to clearly state that applicants on whose behalf unrepaid funds have been obligated from the Plugging and Restoration Fund for well plugging activities are ineligible for the issuance of drilling permits if the proposed new permittee was a previous permittee or an owner of more than 5% interest in a previous permittee on whose behalf such unrepaid funds were expended. Third, delinquency in payment of annual well fees as cause for the denial of a permit transfer is expanded by the addition of language that makes officers, directors, partners or other persons with more than 5% interest in another permittee that is delinquent in payment of annual well fees ineligible to become permittees via transfer. Fourth, non-substantive grammatical changes are made relative to the assumption of responsibility for regulatory requirements by new base lessees and to clarify the Department's duty to notify a new permittee of outstanding violations and mandatory abatement periods. Fifth, a provision is added to clarify that a new permittee via a new base lease is responsible for compliance with all regulatory requirements that pertain to all wells producing from the formation into which injection is to occur. Sixth, subsection (b) (3) is being amended to include a Trustee or Receiver as a new permittee in the event a court transfers the right to drill and produce to these parties. Seventh, a provision is added that absolves the current permittee of liability for violations caused by actions of the new permittee during the permit transfer process after notice of the transfer is given to the Department.

Section 240.1470 has been added to clarify the basis for permit revocation relative to the permit transfer process and to ensure compliance with permit revocation provisions of the Illinois Oil and Gas Act. Revocation is mandatory if a transfer was erroneously issued; false or misstated information was provided by the applicant; outstanding violations of the Act are unabated; an officer, director, partner, or person with more than a 5% interest in either the applicant or another permitted entity fails to abate a violation of the Act as specified in a final administrative decision of the Department; and a 30 day notification requirement is imposed upon the Department to inform the permittee of its intent to revoke a permit transfer.

Section 240.1480 has been amended to accomplish five objectives. First, the documentation upon which a determination is relied to support a decision that an administrative transfer is proper is expressly allowed to be collected by, rather than only submitted to, the Department. Second, conjunctive conditions are added that the sale or other transfer

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transaction occurred before September 26, 1991 or, the failure to transfer was due to a clerical oversight by the Department. Third, it is clarified that the permittee is to pay the requisite transfer fee for administrative transfers effected after September 26, 1991. Fourth, administrative transfers are expressly excluded from the permit transfer restrictions imposed by Section 240.1460(a). Fifth, a clause is inserted to clarify that bonding is not automatically required to operate wells transferred under this Section.

Section 240.1500 has been amended to accomplish five objectives. First, it is clarified that applicants who did not own the right to drill and produce the well(s) listed in the transfer request on September 26, 1991 are required to be bonded. Next, a provision has been added that requires applicants who have unappealed abandoned well orders for non-payment of annual well fees secure appropriate bonding. Third, a new provision is inserted to require that permittees on whose behalf PRF funds have been expended, be bonded. Fourth, subsection (a)(1)(F) is being added to release a court appointed Trustee or Receiver from the bond requirements of the Act given that these parties are subject to court bonding requirements. Fifth, the term "hole" has been deleted and replaced with the word "permit" to reflect compliance with the Illinois Oil and Gas Act's requirement that each permit be subjected to the required bond as opposed to each individual well on the permit.

Section 240.1600 has been amended to achieve five objectives. First, the definition of "Emergency Project" is being broadened to include the clean-up of oil spills and leaking production facilities using funds from the Federal Oil Pollution Act. Second, the definition of "Emergency Remedial Work" is being clarified to ensure that only leaks of crude oil that result from a leaking well may be corrected utilizing funds from the Plugging and Restoration Program. Third, the definition of "Emergency Well Plugging" has been expanded to include non-leaking wells that present an imminent danger to public safety. Fourth, a definition of "person" is newly added to clearly identify the individuals who can be authorized by the Department to plug abandoned or leaking wells under the provisions of the Plugging and Restoration Program. Fifth, a definition of "Well Site" is being added to provide a clarification of locations eligible for remediation using funds from the Plugging and Restoration Program.

Section 240.1610 has been amended to achieve three objectives. First, the Department's purpose of seeking an order to plug or repair leaking or abandoned wells for which hearings have been scheduled pursuant to Section 19.1 of the Act is clarified. Next, a provision is added to clarify that well plugging includes restoration of the associated well site. In addition, the Section is being amended to mandate that only funds paid from the Annual Well Fee portion of the Plugging and Restoration Program may be used for plugging activities initiated under this Section.

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Section 240.1620 has been amended to accomplish three objectives. First, the requirement that a well not be located on a valid lease is deleted as a factor for determining orphan status. Second, grammatical changes are made to clearly indicate the Department's options in addressing orphan well situations. Third, a provision is inserted to require that remedial work performed under this Section can only be paid out of the bond forfeiture moneys portion of the Plugging and Restoration Program Fund.

Section 240.1630 has been amended to achieve five objectives. First the title is changed to indicate the scope of subjects addressed by adding "Plugging and Emergency" as part of the emergency work being completed involving the plugging of wells and emergency repair of leaks. Second, language is inserted to clarify that cessation orders can be issued when an imminent danger to public health or the environment is caused as a result of a leaking well. Third, the restriction that a cessation order may only be issued when a responsible party cannot be readily located is deleted. Fourth, language expands the Department's ability to take any action necessary, including plugging the well, to cause a cessation of danger to the public or environment as a result of practices resulting in leaking fluids from an oil and gas well. Fifth, it is specified that funds for this type of work shall come from the Annual Well Fee portion of the Plugging and Restoration Program Fund.

Section 240.1635 has been added to achieve two objectives. First, it identifies the Federal Oil Pollution Act of 1990 (OPA) as a funding source for remediating actual or imminent crude oil spills that threaten surface waters. Second, it specifies an additional category for the expenditure of funds from the plugging and Restoration Program for remedial work engaged in pursuant to this Section.

Section 240.1640 has been amended to exclude reimbursement for OPA monies as these are federal funds which do not require repayment to the State's Plugging and Restoration Program fund by the oil operator. Cost recovery for such funds will be initiated by the USEPA.

Section 240.1710 has been amended to add a new subsection that clarifies the requisite authority and position of persons signing the annual reporting form. These requirements are consistent with similar provisions throughout the oil and gas rules.

Section 240.1820 has been amended to clarify the type of agreement acceptable to the Department to meet the specified requirement that an operator submit an agreement with the gas storage operator when the oil operator will be drilling a well through the gas storage zones.

Section 240.1852 has been added to establish minimum construction, operating and reporting requirements for gas storage and observation wells. These types of wells must comply with the same requirements

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applicable to all other wells under the jurisdiction of the Department.

Section 240.1940 has been amended to prohibit the conversion of service wells for use as either production or injection wells, as they are not constructed for such other purposes.

- 16) Information and question regarding this adopted amendment shall be directed to:

Alfred L. Clayborne, Legal Counsel  
Department of Natural Resources  
524 South Second Street  
Springfield, IL 62701  
(217)782-1809

The full text of the Adopted Amendments begins on the next page:

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TITLE 62: MINING

PART 240  
THE ILLINOIS OIL AND GAS  
ACT

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240.50	Delegation of Authority (Repealed)
240.60	Right of Inspection (Repealed)
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COMPLETION AND WORKOVER REQUIREMENTS

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240.550 Disposal of General Oilfield Wastes and Other Wastes

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 240.670 Avoidable Waste of Gas (Repealed)  
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 240.1960 Converting to Water Well

AUTHORITY: Implementing and authorized by Sections 6 and 8a of the Illinois Oil and Gas Act [225 ILCS 725/6 and 8a].

SOURCE: Adopted November 7, 1951; emergency amendment at 6 Ill. Reg. 903, effective January 15, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5542, effective April 19, 1982; codified at 8 Ill. Reg. 2475; amended at 11 Ill. Reg. 2818, effective January 27, 1987; amended at 14 Ill. Reg. 2317, effective January 25, 1990; recodified at 14 Ill. Reg. 3053; amended at 14 Ill. Reg. 13620, effective August 8, 1990; amended at 14 Ill. Reg. 20427, effective January 1, 1991; amended at 15 Ill. Reg. 2706, effective January 31, 1991; recodified at 15 Ill. Reg. 8566; recodified at 15 Ill. Reg. 11641; emergency amendment at 15 Ill. Reg. 14679, effective September 30, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 15493, effective October 10, 1991; amended at 16 Ill. Reg. 2576, effective February 3, 1992; amended at 16 Ill. Reg. 15513, effective September 29, 1992; expedited correction at 16 Ill. Reg. 18959, effective September 29, 1992; emergency amendment at 17 Ill. Reg. 1195, effective January 12, 1993, for a maximum of 150 days; amended at 17 Ill. Reg.



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2217, effective February 8, 1993; amended at 17 Ill. Reg. 14097, effective August 24, 1993; amended at 17 Ill. Reg. 19923, effective November 8, 1993; amended at 18 Ill. Reg. 8061, effective May 13, 1994; emergency amendment at 18 Ill. Reg. 10380, effective June 21, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16361, effective November 18, 1994; amended at 19 Ill. Reg. 10981, effective July 14, 1995; amended at 21 Ill. Reg. ~~7164~~ **7164** effective ~~July 14, 1995~~ **July 14, 1995**.

In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

## SUBPART A: GENERAL PROVISIONS

## Section 240.10 Definitions

"Act"--means the Illinois Oil and Gas Act [225 ILCS 725].

"Annular or casing injection/disposal well"--means a well into which fluids are injected between the surface casing and the well bore, the surface casing and the production casing, and/or the production casing and the tubing, or a well into which fluids are injected which does not have production casing, tubing and packer.

"Cement"--means all petroleum industry cements meeting the requirements set forth in "Specifications for Oil Well Cements and Cement Additives", API Standard 10A, January, 1974, published by the American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005 (this incorporation does not include any later publications or editions), except as provided in Subpart K of these rules.

"Class II fluids" means:

Produced water and/or other fluids brought to the surface in connection with drilling, completion, workover and plugging of oil and natural gas wells; enhanced recovery operations; or natural gas storage operations;

Produced water and/or other fluids from above, which prior to re-injection have been:

used on site for purposes integrally associated to oil and natural gas well drilling, completion, workover and plugging, oil and gas production, enhanced recovery operations or natural gas storage;

chemically treated or altered to the extent necessary to make them usable for purposes integrally related to oil and natural gas well drilling, completion, workover and

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plugging, oil and gas production, enhanced recovery operations, or natural gas storage operations;

commingled with fluid wastes resulting from fluid treatments outlined above, provided the commingled fluid wastes do not constitute a hazardous waste under the Resource Conservation and Recovery Act;

Fresh water from groundwater or surface water sources which is used for purposes integrally related or associated with oil and natural gas well drilling, completion, workover and plugging, oil and gas production, enhanced recovery operations or natural gas storage;

Waste fluids from gas plants (including filter backwash, precipitated sludge, iron sponge, hydrogen sulfide and scrubber liquid) which are an integral part of oil and gas production operations; and waste fluids from gas dehydration plants (including glycol-based compounds and filter backwash) which are an integral part of natural gas storage operations, unless the gas plant or gas dehydration plant wastes are classified as hazardous under the federal Resource Conservation and Recovery Act.

"Class II UIC well"--means an Injection, Disposal or Commercial Disposal well into which fluids are injected:

Which are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be commingled with wastewaters from gas plants which are an integral part of production operations under those waters are classified as a hazardous waste at the time of injection;

For enhanced recovery of oil or natural gas;

For storage of hydrocarbons which are liquid at standard temperature and pressure.

"Commercial Disposal Well"--means a permitted Class II well for which the permittee receives deliveries of Class II fluids by tank truck and charges a fee for the specific purpose of disposal of Class II fluids.

"Convert"--means to change an oil, gas, Class II UIC water supply, observation or gas storage well to another of those types of wells, requiring the issuance of a new permit.

"Department"--means the Department of Natural Resources, Office of Mines and Minerals of the State of Illinois. (Section 1 of the Act)

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†225--†56S-725†

"Directional Drilling"--means the controlled directional drilling when the bottom of the well bore is directed away from the vertical position.

"Director"--means the Director of the Office of Mines and Minerals, as the designee of the Director, Illinois Department of Natural Resources.

"Disposal Well"--means a Class II UIC well into which fluids brought to the surface in connection with oil or natural gas production are injected into a non-productive oil or gas zone for purposes other than enhanced oil recovery.

"District Office"--means the Department's office for the district in which the well is located.

"Division"--means the Division of Oil and Gas within the Department of Natural Resources, Office of Mines and Minerals.

"Enhanced Oil Recovery"--means any secondary or tertiary recovery method used in an effort to recover hydrocarbons from a pool by injection of fluids, gases or other substances to maintain, restore or augment natural reservoir energy, or by introducing gases, chemicals, other substances or heat or by in-site combustion, or by any combination thereof. (Section 1 of the Act) †225--†56S-725†

"Enhanced Oil Recovery Injection Well"--means a Class II UIC well used for enhanced oil recovery.

"Flowline"--means all injection, produced water and oil flow lines located within the boundaries of a lease or unit, or gathering lines between leases to a centralized storage area, or to the point where the lines connect with a primary transportation pipeline.

"Fresh Water"--means surface and subsurface water in its natural state useful for drinking water for human consumption, domestic livestock, irrigation, industrial, municipal and recreational purposes, and which will support aquatic life and contains less than 10,000 mg/liter total dissolved solids.

"General Oilfield Waste"--means ~~paper~~ oily rags, chemical containers including any unused chemicals, oil filters and gaskets, used motor oil, lubricating oils, hydraulic fluids, diesel fuels, paint and solvent wastes and other similar wastes generated during drilling, completion, production and plugging activities and which are now or hereafter non-exempt from the provisions of Subtitle C of the

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Federal Resource Conservation Recovery Act of 1976.

"Injection Well"--means a Class II well into which fluids brought to the surface in connection with oil or natural gas production are injected into a producing oil or gas zone for purposes of enhanced oil recovery.

"Liquid Oilfield Waste"--means oilfield brines, produced waters, Class II fluids, tank and pit crude oil bottom sediments, and drilling and completion fluids, to the extent those wastes are now or hereafter exempt from the provisions of Subtitle C of the Federal Resource Conservation Recovery Act of 1976. (Section 8C of the Act) †225--†56S-725/8c†

"Liquid Oilfield Waste Hauler"--means a person holding a permit to operate a liquid oilfield waste transportation system.

"Orphan Well"--means a well for which:

†1† No fee assessment under Section 19.7 of the Act has been paid or no other bond coverage has been provided for 2 consecutive years;

†2† no oil or gas has been produced from the well or from the lease or unit on which the well is located for 2 consecutive years; and

†3† no permittee or owner can be identified or located by the Department. Orphaned wells include wells that may have been drilled for purposes other than those for which a permit is required under the Act if the well is a conduit for oil or salt water intrusions into fresh water zones or onto the surface which may be caused by oil and gas operations. (Section 1 of the Act) †225--†56S-725†

"Owner"--means the person who has the right to drill into and produce from any pool, and to appropriate the production either for himself or for himself the person or for the person and another, or others, or solely for others, excluding the mineral owner's royalty if the right to drill and produce has been granted under an oil and gas lease. An owner may also be a person granted the right to drill and operate an injection (Class II UIC) well independent of the right to drill for and produce oil or gas. When the right to drill, produce, and appropriate production is held by more than one person, then all persons holding these rights may designate the owner by a written operating agreement or similar written agreement. In the absence of such an agreement, and subject to the provisions of Sections 22.2 and 23.1 through 23.16 of the Act, the owner shall be the person

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designated in writing by a majority in interest of the persons holding these rights. (Section 1 of the Act) {225-fbES-725}

"Permit"--means the Department's written authorization allowing a well or test hole to be drilled, deepened, converted and/or operated by an owner. (Section 1 of the Act) {225-fbES-725}

"Permittee"--means the person owner holding or required to hold the permit, and who is also responsible for paying assessments in accordance with Section 19.7 of the Act and, where applicable, executing and filing the bond associated with the well as principal and who is responsible for compliance with all statutory and regulatory requirements pertaining to the well. When the right and responsibility for operating a well is vested in a receiver or trustee appointed by a court of competent jurisdiction, the permit shall be issued to the receiver or trustee. When the ownership of the right to drill--for--and--produce--oil--or--gas--consists--of--fractional--undivided working--interests--the permit shall be issued to an owner--designated under--an--operating--or--other--similar--agreement--as--having--the--full rights--and--responsibility--for--operating--the--well--in--the--absence--of such--agreement--the permit shall be issued to an owner--designated--by the--majority--in--interest--of--the--owners--of--the--well. (Section 1 of the Act) {225-fbES-725}

"Person"--means any natural person, corporation, association, partnership, governmental agency or other legal entity, receiver, trustee, guardian, executor, administrator, fiduciary or representative of any kind. (Section 1 of the Act) {225-fbES-725}

"Pool"--means a natural underground reservoir containing, in whole or in part, a natural accumulation of oil or gas, or both. Each productive zone or stratum of a general structure, which is completely separated from any other zone or stratum in the structure, is deemed a separate "pool" as used herein. (Section 1 of the Act) {225-fbES-725}

"Produced Water"--means water regardless of chloride and total dissolved solids (TDS) content which is produced in conjunction with oil and/or natural gas production and natural gas storage operations.

"Production Casing"--means the string of casing placed in a well and used for the purpose of isolating the production or injection formation.

"Repressure"--means to increase the reservoir pressure by the introduction of gas, air or water or other fluid into the reservoir.

"Reservoir"--for the purpose of these rules, is interchangeable with the term "pool".

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"Rotary Drilling"--means the hydraulic process of drilling a well for oil or gas as such method is commonly used in the industry.

"Shooting"--means the exploding of nitroglycerin or other high explosives in a well for the purpose of increasing the production of oil or gas.

"Surface Waters"--means any river, stream, lake, pond or intermittent stream.

"Tank"--means a vessel into which oil or water is gathered, produced or stored.

"the Act"--means--the--provisions--of--the--Illinois--Oil--and--Gas--Act--{225-fbES-725}.

"Undeveloped Limits of a Mine"--means that portion of a mine where the entries have not been driven to the boundaries of the mine property.

"Vacuum"--means pressure which is reduced below the pressure of the atmosphere.

"Water Drainage Way"--means any drainage ditch, roadside ditch, grassy waterway or any other natural or manmade surface or underground water drainage system.

"Well"--means any drill hole required to be permitted under subsection (2) of Section 6 or Section 12 of the Act.

(Source: Amended at 21 Ill. Reg. 7164E, effective June 13, 1997)

## Section 240.131 Unitization Hearings

## a) Commencement of Action

Where separately owned tracts of land are underlain by all or a portion of a common pool of oil or gas or both, an interested person may petition the Department for an order unitizing those tracts, that is to combine those tracts within a unified operation, pursuant to Section 23.3 23-2 et-seq of the Act. The petition for a unitization order shall contain the following:

- 1) A legal description of the land and geologic description of the reservoirs within the proposed unit area;
- 2) The names of all persons owning or having an interest in the oil and gas rights in the proposed unit area as of the date of filing the petition, as disclosed by the records in the office of the recorder for the county or counties in which the unit area is situated, and their addresses, if known. If the address of any



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person or the name of any owner is unknown, the petition shall so indicate and shall state whether due diligence was used in locating such unknown address or unknown owner;

- 3) A statement of the type of operations contemplated for the unit area;
- 4) A copy of a proposed plan of unitization signed by persons owning not less than 51% 60% of the working interest underlying the surface within the area proposed to be unitized, which the petitioner considers fair, reasonable and equitable; said plan of unitization shall include (or provide in a separate unit operating agreement, if there be more than one working interest owner, a copy of which shall accompany the petition) the following:
  - A) A plan for allocating to each separately owned tract in the unit area its share of the oil and gas produced from the unit area and not required or consumed in the conduct of the operation of the unit area or unavoidably lost; the plan shall include the participation factors for each tract and a detailed description of the methodology and supporting data used to calculate the participation factors.
  - B) A provision indicating how unit expense shall be determined and charged to the several owners, including a provision for carrying or otherwise financing any working interest owner who has not executed the proposed plan of unitization and who elects to be carried or otherwise financed, and allowing the unit operator, for the benefit of those working interest owners who have paid the development and operating costs, the recovery of not more than 150% of such person's actual share of development costs of the unit plus operating costs, with interest. Recovery of the money advanced to owners wishing to be financed, for development and operating costs of the unit, together with such other sums provided for herein, shall only be recoverable from such owner's share of unit production from the unit area.
  - C) A procedure and basis upon which wells, equipment, and other properties of the several working interest owners within the unit area are to be taken over and used for unit operations, including the method of arriving at the compensation therefor.
  - D) A plan for maintaining effective supervision and conduct of unit operations, in respect to which each working interest owner shall have a vote with a value corresponding to the percentage of unit expense chargeable against the interest of such owner. ¶111--Rev--Stat--1991--ch--96--1/2--par--5440† t225--156S-725/23-3†
  - E) A summary of the total cumulative production to date, the estimated additional total recoverable reserves from the proposed unit, and the estimated total development cost and

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- 5) The name and addresses of the proposed operator or operators of the unit;
  - 6) A map showing the tracts or group of leases included within the proposed unit area, the location of the proposed injection well or wells and the name, permit number, and location of all oil and gas wells, including abandoned wells, active wells and dry holes and the reservoirs in which all such wells are currently completed, and the names of all operators offsetting the proposed unit area and the name, description and depth of the producing zones in those areas;
  - 7) A map showing the structure of the geologic horizon that best represents the structure of the proposed reservoirs to be unitized;
  - 8) A listing of the reservoirs to be unitized and a map showing the productive portion, thickness, and extent of each such reservoir;
  - 9) An induction or electric log of a representative well completed in the proposed unitized reservoirs;
  - 10) A description of the injection medium to be used, its source and the estimated amounts to be injected daily;
  - 11) A description of the proposed plan of development of the area included within the unit;
  - 12) An allegation of the facts required to be found by the Department under Section 23.5 of the Act. The required facts are as follows:
    - A) That the unitized management and operation is economically feasible and reasonably necessary to increase the ultimate recovery of oil and gas, to prevent waste, and to protect correlative rights;
    - B) That the value of the estimated ultimate additional recovery of oil and gas will exceed the estimated additional cost, if any, incident to conducting the unit operation;
    - C) That the areal extent of the pool or pools, or parts thereof, has been reasonably defined and determined by drilling operations, and the unitization and operation of such will have no substantially adverse effect upon the remainder of the pool or pools, or parts thereof;
    - D) That the allocation of unit production to each separately owned tract is fair, reasonable and equitable to all owners of oil and gas rights in the unit area;
    - E) That the determination and allocation of unit expense is fair, reasonable and equitable to the working interest owners; and
    - F) That the compensation or adjustment for wells, equipment and other properties of the working interest owners is fair, reasonable and equitable ¶111--Rev--Stat--1991--ch--96--1/2--par--5442† t225--156S-725/23-5†.
- b) Execution and Filing

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- 1) The petition for an order creating a unit pursuant to Section 23.3 et seq. of the Act shall be filed with the Illinois Department office located in of Mines and Minerals, 6111 and Gas Division, 300 West Jefferson, Suite 300, P.O. Box 10140, Springfield, Illinois 62791-0140. The petition shall be deemed filed when it is received by the Department, Department's Division of Oil and Gas Division.
- 2) Every petition shall be signed by the petitioner or his representative and his address shall be stated thereon. The signature of the petitioner or his representative constitutes a certificate by him that he has read the petition and that to the best of his knowledge, information and belief there is good ground to support the same.
- 3) If after the petition is filed, and prior to setting a hearing date, the Department finds the petition deficient relative to the requirements of subsection (a) above, the Department shall return the petition to the applicant with a statement as to the deficiencies.

## c) Notice of Hearing

- 1) Upon the receipt of a petition for unitization, the Department shall fix the time and place for a public hearing, which shall be no less than 30 days nor more than 60 days after the date of the filing of said petition. The Department shall prepare a notice of hearing, which shall issue in the name of the State of Illinois and shall be signed by the Director. Such notice shall specify the number and style of the proceedings, the time and place of the hearing, the purpose of the hearing, the name of the petitioner, and a legal description of the lands contained within the proposed unit area. (((Rev-Stat-1991-ch-96-1/27-par-544))) (Section 23.4 of the Act) (((225-IBES-725/34-4))) The notice shall also state that any interested person may file an entry of appearance in the hearing by submitting such entry of appearance in writing to the Department and that thereafter such person shall be deemed a party of record in the proceeding.
- 2) The Department shall mail such notice to the Petitioner who shall then serve such notice in the following manner:
  - A) By mailing such notice by U.S. Postal service certified mail, return receipt requested, directed to the persons named in the petition at their last known addresses at least 20 days prior to the hearing; and
  - B) By publication of such notice for service on those persons whose addresses are unknown or whose names are unknown, once each week for 2 consecutive weeks, with the first notice appearing at least 20 days prior to the hearing, in a newspaper of general circulation published in each county containing some portion of the proposed unit area. (Section 23.4 of the Act) (((Rev-Stat-1991-ch-95-1/27-par-544))) (((225-IBES-725/23-4)))

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- 3) Whenever the Department shall determine that a notice of hearing should be served upon a person because the granting or denying of the relief requested in the petition would materially affect such person's rights or property, the Department shall cause notice to be sent to such person, as provided in this subsection.
- d) Pre-Hearing Conferences
  - 1) Upon his own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet with him for a conference in order to:
    - A) Simplify the factual and legal issues presented by the hearing request;
    - B) Receive stipulations, admissions of fact and of the contents and authenticity of documents;
    - C) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and
    - D) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.
  - 2) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all parties.
- e) Hearing
  - 1) Conduct of Hearing: Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall take all necessary action to avoid delay, to maintain order and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including the following:
    - A) To administer oaths and affirmations;
    - B) To receive relevant evidence;
    - C) To regulate the course of the hearing and the conduct of the parties and their counsel therein;
    - D) To consider and rule upon procedural requests;
    - E) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony and set reasonable limits on the amount of time each witness may testify; and
    - F) To require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record. The Hearing Officer may require that relevant documents be produced to any party of record on his own motion or for good cause shown on motion of any party of record.
  - 2) Every interested person wishing to participate at the hearing shall enter his appearance by stating his name and address. Thereafter, such person shall be deemed a party of record.
  - 3) All participants in the hearing shall have the right to be

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- represented by counsel.
- 4) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.
  - 5) At least one representative of the Department shall appear at any hearing held under this Section and shall be given the opportunity to question parties or otherwise elicit such information as is necessary to reach a decision on the petition.
  - 6) Preliminary Matters: Where applicable, the following shall be addressed prior to receiving evidence:
    - A) The petitioner may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of service of the notice of hearing, proof of publication and orders previously entered in the cause.
    - B) Ruling may be made on any pending motions.
    - C) Any other preliminary matters appropriate for disposition prior to presentation of evidence.

## f) Evidence

- 1) Admissibility: A party shall be entitled to present his case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received but the presiding Hearing Officer shall exclude evidence which is irrelevant, immaterial or unduly repetitious. The rules of evidence and privilege applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under such rules of evidence may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.

- 2) Official Notice: Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of such fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge.

- 3) Order of Proof: The petitioner shall open the proof. Other parties of record shall be heard immediately following the petitioner. The Hearing Officer or Department representatives may examine any witnesses. In all cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.

- 4) Briefs: The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing

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Officer shall determine as being consistent with the Department's responsibility for an expeditious decision.

- g) Record of Proceedings; Testimony  
The Department shall provide at its expense a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing. Any person testifying shall be required to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Department as such and included in the record.

## h) Postponement or Continuance of Hearing

A hearing may be postponed or continued for due cause by the Hearing Officer upon his own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 3 business days prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.

## i) Default

If a party, after proper service of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed to make its decision in the absence of such party. If the failure to appear at such pre-hearing conference or hearing is due to an emergency situation beyond the parties' control, and the Department is notified of such situation on or before the scheduled pre-hearing conference or hearing, the pre-hearing conference or hearing will be continued or postponed pursuant to Section 240.130(h). Emergency situations include sudden unavailability of counsel, sudden illness of a party or his representative, or similar situations beyond the parties' control.

## j) Order

- 1) Upon the conclusion of any hearing held under this Section, the Hearing Officer, after consultation with the Department representatives, shall prepare an order disposing of the petition, which shall be presented to the Director for entry. The Department shall render a decision within 30 days after the hearing unless all parties that have appeared agree to waive this requirement.

- 2) The order shall grant the petition for unitization if based on the record the Hearing Officer finds all of the following:

- A) That the unitized management and operation is economically feasible and reasonably necessary to increase the ultimate recovery of oil and gas, to prevent waste, and to protect correlative rights;
- B) That the value of the estimated ultimate additional recovery



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No order of the Department providing for unit operations shall become effective unless and until the plan of unitization has been approved in writing by those persons who, under the order, will be required to pay at least 51% 75% of the unit expense, and also by the persons owning at least 51% 75% of the unit production or proceeds thereof that will be credited to interests which are free of unit expense, including but not limited to, royalties, overriding royalties, carried interests, net profit interests, and production payments, and the Director has made such a finding, either in the order providing for unit operations or in a supplemental order, that the plan of unitization has been so approved; provided, however, that if any person is obligated to pay 51% 75% or more, but less than 100% of the unit expense, the approval of that person and at least one other such person shall be required; and if one person entitled to production or proceeds thereof will be credited to interests which are free of unit expense, owns 51% 75% or more, but less than 100%, the approval of that person and at least one other such person shall be required. If the plan of unitization has not been so approved at the time the order providing for unit operations is issued, the Department shall, upon petition and notice, hold such supplemental hearings as may be required to determine if and when the plan of unitization has been so approved and shall issue a supplemental order evidencing such approval. If the requisite number of persons and the requisite percentage of interests in the unit area do not approve the plan of unitization within a period of 6 months from the date on which the order providing for unit operations is made, such order shall be revoked by the Department unless for good cause shown the Department extends said time for an additional period of time not to exceed one year. (Section 23.8 of the Act) (Ill-Rev-Stat-1991-ch-96-1/27 par-5445) (225-116S-725/23-5)

1) Notice of Order--Recordation  
Within 10 days after an order has been issued, a copy of such order shall be mailed by the Department to each person or his attorney of record who has entered his appearance in the matter pursuant to which such order is issued. The petitioner shall cause to be recorded in the office of the county clerk of the county or counties in which the unit is situated a copy of the order providing for unit operations.  
m) Order--Final Administrative Decision  
The Director's order is a final administrative decision of the Department, pursuant to Section 10 of the Act.

(Source: Amended at 21 Ill. Reg. 7163, effective 1/1/1997)

Section 240.132 Integration Hearings

- a) Commencement of Action  
Where the oil or gas rights within a drilling unit are separately

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- of oil and gas will exceed the estimated additional cost, if any, incident to conducting the unit operation;
- C) That the areal extent of the pool or pools, or parts thereof, has been reasonably defined and determined by drilling operations, and the unitization and operation of such will have no substantially adverse effect upon the remainder of the pool or pools, or parts thereof;
- D) That the allocation of unit production to each separately owned tract is fair, reasonable and equitable to all owners of oil and gas rights in the unit area;
- E) That the determination and allocation of unit expense is fair, reasonable and equitable to the working interest owners; and
- F) That the compensation or adjustment for wells, equipment and other properties of the working interest owners is fair, reasonable and equitable. (Section 23.5 of the Act) (Ill-Rev-Stat-1991-ch-96-1/27-par-5442) (225-116S-725/23-5)
- 3) If the petition is granted the order shall provide for the authorization of the unit and unitized operation, as proposed by the petitioner, upon such terms and conditions as may be shown by the evidence to be fair, reasonable, equitable and which are necessary or proper to protect and safeguard the respective rights and obligations of the working interest owners and royalty owners, and for the protection of correlative rights and the prevention of waste. The order shall state the time the unit operation shall become effective and the manner in which and the circumstances under which the unit operation shall terminate.
- 4) Except as provided in subsection (j)(5) below, the order shall deny and dismiss the petition for unitization if based on the record the Hearing Officer finds that the petitioner has failed to establish the requirements for formation of a unit set forth in subsection (j)(2) above. An order denying and dismissing a petition for unitization shall be entered within thirty--t 30t days after the hearing. Such order shall set forth the reasons for dismissal, and the same shall be promptly filed by the petitioner, if notice was filed under paragraph (2) of Section 23.3 of the Act, in the recorder's office of the county or counties wherein the land is situated. (Section 23.6 of the Act)
- 5) As an alternative to denying the petition for unitization, the Department may issue an interim order outlining the substantive deficiencies that must be cured by the petitioner in order to avoid dismissal. If the petitioner supplies the information requested by the Department, a new hearing shall be scheduled in order to examine such documents. If the petitioner fails to comply with the interim order, the petition shall be denied. The Department shall send notice of such hearing to all parties of record.
- k) Approval of plan of unitization--effective date of order

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owned and the owners of those rights have not voluntarily agreed to integrate or pool those rights to develop the oil or gas, an owner may petition the Department for an order integrating those rights, pursuant to Section 22.2 of the Act. The petition for an order integrating interests shall contain the following:

- 1) The name and address of the petitioner;
  - 2) The petitioner's reasons for desiring to integrate the separately owned interests;
  - 3) A legal land description of the drilling unit sought to be established;
  - 4) A geologic report of the area where the proposed drilling unit is to be located indicating the potential presence of reservoirs;
  - 5) A description of the interest owned by the petitioner and each person named in the petition;
  - 6) The names of all persons who have not agreed to integrate their interests owning or having an interest in the oil and gas rights in the proposed drilling unit as of the date of filing the petition, as disclosed by the records in the office of the recorder for the county or counties in which the drilling unit is situated, and their addresses, if known. If the address of any person is unknown, the petition shall so indicate;
  - 7) A statement that the owners have not agreed to integrate their interests;
  - 8) A statement that the petitioner has exercised due diligence to locate each owner and that a bona fide effort was made to reach an agreement with each owner as to how the unit would be developed;
  - 9) A statement that no action has been commenced by the owners seeking permission to drill pursuant to the provisions of the Oil and Gas Rights Act (435 ILCS 201) or the provisions of the Oil and Gas Rights Act (435 ILCS 201) or the provisions of the Oil and Gas Rights Act (435 ILCS 201);
  - 10) Any other information relevant to protect correlative rights of the parties sought to be affected by the order.
- b) Execution and Filing
- 1) The petition for an order requiring integration pursuant to Section 22.2 of the Act shall be filed with the Illinois Department of Natural Resources, Office of the Secretary, 600 North LaSalle Street, Springfield, Illinois 62791-0140. The petition shall be deemed filed when it is received by the Department's Division of Oil and Gas.
  - 2) Every petition shall be signed by the Petitioner or his representative and his address shall be stated thereon. The signature of the petitioner or his representative constitutes a certificate by him that he has read the petition and that to the best of his knowledge, information and belief there is good ground to support the same.
  - 3) If after the petition is filed, and prior to setting a hearing

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date, the Department finds the petition deficient relative to the requirements of subsection (a) above, the Department shall return the petition to the applicant with a statement as to the deficiencies.

## c) Notice of Hearing

- 1) Upon the receipt of a petition for integration, the Department shall fix the time and place for a hearing.
  - 2) The Department shall prepare a notice of hearing which shall issue in the name of the State of Illinois and shall be signed by the Director. Such notice shall specify the number and style of the proceeding, the time and place of the hearing, the purpose of the hearing, the name of the petitioner, and a legal description of the lands embraced within the proposed drilling unit. The notice shall also state that any interested person may file an entry of appearance in the hearing by submitting such entry of appearance in writing to the Department and that thereafter such person shall be deemed a party of record in the proceeding.
  - 3) The Department shall mail such notice to the Petitioner who shall then serve such notice in the following manner:
    - A) By mailing such notice by U.S. Postal service certified mail, return receipt requested, directed to the persons named in the petition at their last known addresses at least 20 days prior to the hearing; and
    - B) By publication of such notice for service on those persons whose addresses are unknown or whose names are unknown, once each week for 2 consecutive weeks, with the first notice appearing at least 20 days prior to the hearing in a newspaper of general circulation published in each county containing some portion of the proposed integrated unit.
  - 4) Whenever the Department shall determine that a notice of hearing should be served upon a person because the granting or denying of the relief requested in the petition would materially affect such person's rights or property, the Department shall cause notice to be sent to such person, as provided in this subsection.
- d) Pre-Hearing Conferences
- 1) Upon his own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet with him for a conference in order to:
    - A) Simplify the factual and legal issues presented by the hearing request;
    - B) Receive stipulations, admissions of fact and the contents and authenticity of documents;
    - C) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and
    - D) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.

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- 2) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all parties.

## e) Hearing

- 1) Conduct of Hearing: Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall take all necessary action to avoid delay, to maintain order and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including the following:

- A) To administer oaths and affirmations;
- B) To receive relevant evidence;
- C) To regulate the course of the hearing and the conduct of the parties and their counsel therein;
- D) To consider and rule upon procedural requests;
- E) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony and set reasonable limits on the amount of time each witness may testify; and
- F) To require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record. The Hearing Officer may require that relevant documents be produced to any party of record on his own motion or for good cause shown on motion of any party of record.

- 2) Every person appearing shall enter his appearance by stating his name and address. Thereafter, such person shall be deemed a party of record.

- 3) All participants in the hearing shall have the right to be represented by counsel.

- 4) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.

- 5) At least one representative of the Department shall appear at any hearing held under this Section and shall be given the opportunity to question parties or otherwise elicit such information as is necessary to reach a decision on the petition.

- 6) Preliminary Matters: Where applicable, the following shall be addressed prior to receiving evidence:

- A) The petitioner may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of publication and orders previously entered in the cause.

- B) Ruling may be made on any pending motions.

- C) Any other preliminary matters appropriate for disposition prior to presentation of evidence.

## f) Evidence

- 1) Admissibility: A party shall be entitled to present his case by

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oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received but the presiding Hearing Officer shall exclude evidence which is irrelevant, immaterial or unduly repetitious. The rules of evidence and privilege applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under such rules of evidence may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.

- 2) Official Notice: Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of such fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge.

- 3) Order of Proof: The petitioner shall open the proof. Other parties of record shall be heard immediately following the petitioner. The Hearing Officer or Department representatives may examine any witnesses. In all cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.

- 4) Briefs: The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing Officer shall determine as being consistent with the Department's responsibility for an expeditious decision.

- g) Record of Proceedings: Testimony

The Department shall provide at its expense a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing. Any person testifying shall be required to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Department as such and included in the record.

- h) Postponement or Continuance of Hearing

A hearing may be postponed or continued for due cause by the Hearing Officer upon his own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of any emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 3 business days prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or



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continuances so that the subject matter of the hearing may be resolved expeditiously.

i)

Default

If a party, after proper services of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed to make its decision in the absence of such party. If the failure to appear at such pre-hearing conference or hearing is due to an emergency situation beyond the parties' control, and the Department is notified of such situation on or before the scheduled pre-hearing conference or hearing, the pre-hearing conference or hearing will be continued or postponed pursuant to Section 240.130(h). Emergency situations include sudden unavailability of counsel, sudden illness of a party or his representative, or similar situations beyond the parties' control.

j)

1) Upon the conclusion of any hearing held under this Section, the Hearing Officer, after consultation with the Department representatives, shall prepare an order disposing of the petition, which shall be presented to the Director for entry.

2) In making the determination of integrating separately owned interests, and determining to whom the permit should be issued, the Department may consider:

- A) The reasons requiring the integration of separate interests;
- B) The respective interests of the parties in the drilling unit sought to be established, and the pool or pools in the field where the proposed drilling unit is located;
- C) Any parties' prior or present compliance with the Act and the Department's rules; and
- D) Any other information relevant to protect the correlative rights of the parties sought to be affected by the integration order.

3) Each order integrating separately owned interests shall authorize the drilling, testing, completing, equipping, and operation of a well on the drilling unit; provide who may drill and operate the well; prescribe the time and manner in which all the owners in the drilling unit may elect to participate therein; and make provision for the payment by all those who elect to participate therein of the reasonable actual cost thereof, plus a reasonable charge for supervision and interest. Should an owner not elect to voluntarily participate in the risk and costs of the drilling, testing, completing and operation of a well as determined by the Department, the integration order shall provide either that:

- A) The nonparticipating owner shall surrender a leasehold interest to the participating owners on a basis and for such terms and consideration the Department finds fair and reasonable; or
- B) The nonparticipating owner shall share in a proportionate part of the production of oil and gas from the drilling unit

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determined by the Department, and pay a proportionate part of operation cost after the participating owners have recovered from the production of oil or gas from a well all actual costs in the drilling, testing, completing and operation of the well plus a penalty to be determined by the Department of not less than 100% nor more than 300% of such actual costs.

4) For the purpose of this Section, the owner or owners of oil and gas rights in and under an unleased tract of land shall be regarded as a lessee to the extent of a 7/8 interest in and to said rights and a lessor to the extent of the remaining 1/8 interest therein.

5) In the event of any dispute relative to costs and expenses of drilling, testing, equipping, completing and operating a well, the Department shall determine the proper costs after due notice to interested parties and a hearing thereon. The operator of such unit, in addition to any other right provided by the integration order of the Department, shall have a lien on the mineral leasehold estate or rights owned by the other owner therein and upon their shares of the production from such unit to the extent that costs incurred in the development and operation upon said unit are a charge against such interest by order of the Department or by operation of law. Such liens shall be separable as to each separate owner within such unit, and shall remain liens until the owner or owners drilling or operating the well have been paid the amount due under the terms of the integration order. (1117--Rev--Stat--19917-ch--96-1/27-par--5436) (Section 22.2 of the Act) (225-1BES-725/227)

6) As an alternative to denying the petition for integration, the Department may issue an interim order outlining the substantive deficiencies that must be cured by the Petitioner in order to avoid dismissal. If the Petitioner supplies the information requested by the Department, a new hearing shall be scheduled in order to examine such documents. If the Petitioner fails to comply with the interim order, the petition shall be denied. The Department shall send notice of such hearing to all parties of record.

k) Notice of Order--Recordation

Within 10 days after an order has been issued, a copy of such order shall be mailed by the Department to each person or his attorney of record who has entered his appearance in the matter pursuant to which such order is issued and to each working interest owner who has not agreed to an integration. The petitioner shall cause to be recorded in the office of the county clerk of the county or counties in which the drilling unit is situated a copy of the order providing for integration of the separate interests.

l) Order--Final Administrative Decision

The Director's order is a final administrative decision of the

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Department, pursuant to Section 10 of the Illinois Oil and Gas Act.

(Source: Amended at 21 Ill. Reg. 7134, effective 4/1/87)

## Section 240.133 Hearings to Establish Pool-Wide Drilling Units

## a) Commencement of Action

- 1) Any interested person may petition the Department for a hearing to establish a drilling unit or units for the production of oil and gas or either of them for each pool to which the interested person owns some portion of the oil and gas. (Section 21.1 of the Act) (iii:--Rev:--Stat:--1991--chr-96-1/27-par:--5433; f225-1565 725/21-11)
- 2) The petition for hearing to establish a drilling unit or units shall contain the following:
  - A) The name and address of the petitioner;
  - B) A legal description of the size of the drilling unit sought to be established;
  - C) A legal description of the extent of the reservoir to which the drilling unit or units are sought to be established;
  - D) A list of the names and addresses of all permittees of oil or gas interests in the reservoir as described in subsection (c) above;
  - E) A geologic description of the pool and an isopach and structure map of the reservoir, for which the drilling unit is sought showing the productive limits of the reservoir;
  - F) A plat showing all oil and gas or water injection or storage wells completed within the pool (reservoir);
  - G) Geologic and engineering reports outlining the reasons for and data supporting the proposed size of the drilling unit or units.

- 3) If the establishment of a drilling unit or units would require the integration of separately owned interests in the drilling unit or units, the petitioner may contemporaneously file a petition under Section 240.132 and the matters shall then be consolidated and heard together.

## b) Execution and Filing

- 1) The petition to establish drilling units shall be filed with the Illinois Department of Natural Resources' office located in ~~of Mines and~~ ~~Mineral Oil and Gas Division~~ 300 West Jefferson, Suite 3007 P.O. Box 10140, Springfield, Illinois 62791-0140. The petition shall be deemed filed when it is received by the Department's Division of Oil and Gas ~~Department Oil and Gas Division~~.
- 2) Every petition shall be signed by the petitioner or his representative and his address shall be stated thereon. The signature of the petitioner or his representative constitutes a certificate by him that he has read the petition and that to the

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best of his knowledge, information and belief there is good ground to support the same.

- 3) If after the petition is filed, and prior to setting a hearing date, the Department finds the petition deficient relative to the requirements of subsection (a) above, the Department shall return the petition to the applicant with a statement as to the deficiencies.

## c) Hearing--Notice

- 1) Upon the receipt of the petition to establish drilling units, the Department shall fix the time and place for a hearing.
- 2) The Department shall prepare a notice of hearing which shall issue in the name of the State of Illinois and shall be signed by the Director. Such notice shall specify the number and style of the proceeding, the time and place of the hearing, the purpose of the hearing, the name of the petitioner, and a legal description of the affected lands. The notice shall also state that any interested person may file an entry of appearance in the hearing by submitting such entry of appearance in writing to the Department and that thereafter such person shall be deemed a party of record in the proceeding.
- 3) The Department shall mail such notice to the petitioner who shall then serve such notice in the following manner:
  - A) By mailing such notice by U.S. Postal Service certified mail with return receipt, directed to the persons named in the petition pursuant to subsection (a)(2)(D) above at their last known addresses at least 20 days prior to the hearing; and
  - B) By publication of such notice for service on those persons whose addresses are unknown or whose names are unknown and for those owners of unleased mineral rights, once each week for 2 consecutive weeks, with the first notice appearing at least 20 days prior to the hearing in a newspaper of general circulation published in each county containing some portion of the proposed integrated unit.
- 4) Whenever the Department shall determine that a notice of hearing should be served upon a person because the granting or denying of the relief requested in the petition would materially affect such person's rights or property, the Department shall cause notice to be sent to such person, as provided in this subsection (c).

## d) Pre-Hearing Conferences

- 1) Upon his own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet with him for a conference in order to:
  - A) Simplify the factual and legal issues presented by the hearing request;
  - B) Receive stipulations, admissions of fact and the contents and authenticity of documents;
  - C) Exchange lists of witnesses the parties intend to have

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testify and copies of all documents the parties intend to introduce into evidence at the hearing; and

D) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.

- 2) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all parties.

## e) Hearing

- 1) Conduct of Hearing: Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall take all necessary action to avoid delay, to maintain order and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including the following:

- A) To administer oaths and affirmations;
- B) To receive relevant evidence;
- C) To regulate the course of the hearing and the conduct of the parties and their counsel therein;
- D) To consider and rule upon procedural requests;
- E) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony and set reasonable limits on the amount of time each witness may testify;
- F) To require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record.

- 2) Every person desiring to participate in the hearing shall enter his appearance by stating his name and address. Thereafter, such person shall be deemed a party of record.

- 3) All participants in the hearing shall have the right to be represented by counsel.

- 4) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.

- 5) At least one representative of the Department shall appear at any hearing held under this Section and shall be given the opportunity to question parties or otherwise elicit such information as is necessary to reach a decision on the petition. Where applicable, the following shall be addressed prior to receiving evidence:

- A) The petitioner may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of publication and orders previously entered in the cause.

- B) Ruling may be made on any pending motions.

- C) Any other preliminary matters appropriate for disposition prior to presentation of evidence.

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## f) Evidence

- 1) Admissibility: A party shall be entitled to present his case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received but the presiding Hearing Officer shall exclude evidence which is irrelevant, immaterial or unduly repetitious. The rules of evidence and privilege applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under such rules of evidence may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.

- 2) Official Notice: Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of such fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge.

- 3) Order of Proof: The petitioner shall open the proof. Other parties of record shall be heard immediately following the petitioner. The Hearing Officer or Department representatives may examine any witnesses. In all cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.

- 4) Briefs: The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing Officer shall determine as being consistent with the Department's responsibility for an expeditious decision.

- 9) Record of proceedings; Testimony

The Department shall provide at its expense a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing. Any person testifying shall be required to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Department as such and included in the record.

- h) Postponement or Continuance of Hearing

A hearing may be postponed or continued for due cause by the Hearing Officer upon his own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 3 business



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days prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.

## i) Default

If a party, after proper service of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed to make its decision in the absence of such party. If the failure to appear at such pre-hearing conference or hearing is due to an emergency situation beyond the parties' control, and the Department is notified of such situation on or before the scheduled pre-hearing conference or hearing date, the pre-hearing conference or hearing will be continued or postponed pursuant to Section 240.130(h). Emergency situations include sudden unavailability of counsel, sudden illness of a party or his representative, or similar situations beyond the parties' control.

## j) Order

1) Upon the conclusion of any hearing held under this Section, the Hearing Officer, after consultation with the Department representative, shall prepare an order disposing of the petition, which shall be presented to the Director for entry.

2) Hearing Officer finds that establishing the drilling unit will prevent waste, protect the correlative rights of the owners in the pools, and prevent the unnecessary drilling of wells.

3) No drilling unit shall be established which requires the allocation of more than 40 acres of surface area nor less than 10 acres of surface area to an individual well for production of oil from a pool the top of which lies less than 4000 feet beneath the surface (as determined by the original or discovery well in the pool) provided, however, that the Department may permit the allocation of greater acreage to an individual well and provided further that the spacing of wells in any pool the top of which lies less than 4000 feet beneath the surface (as determined by the original or discovery well in the pool) shall not include the fixing of a pattern except with respect to the 2 nearest external boundary lines of each drilling unit. (Section 21.1 of the Act) (Ill.-Rev-Stat.-1991--ch.-96-1/2-par.-5433) [225-IEGS-725/21-i]

4) The drilling units established by an order under this Section shall be of approximately uniform size and shape for each entire pool, except that where circumstances reasonably require, the Department may grant exceptions to the size or shape of any drilling unit or units, in which case the order shall state the particular circumstances that require such exception.

5) Each order establishing drilling units shall specify the size and shape of the unit, which shall be such as will result in the efficient and economical development of the pool as a whole, and subject to the provisions of subsection [1](3) above, the size of

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no drilling unit shall be smaller than the maximum area that can be efficiently and economically drained by one well.

6) Each order establishing drilling units for a pool shall cover all lands determined or believed to be underlain by such pool. Each order establishing drilling units may be modified by the Department to change the size thereof, or to permit the drilling of additional wells.

7) Each order establishing drilling units shall prohibit the drilling of more than one well on any drilling unit for the production of oil or gas from the particular pool with respect to which the drilling unit is established and subject to the provisions of subsection [1](3) above shall specify the location for the drilling of such well thereon, in accordance with a reasonably uniform spacing pattern, with necessary exceptions for wells drilled or drilling at the time of the application. If the Department finds, after notice and hearing, notice being made as provided in this Section to all parties of record in the proceeding, that surface conditions would substantially add to the burden or hazard of drilling such well at the specified location, or for some other reason it would be inequitable or unreasonable to require a well to be drilled at the specified location, the Department may issue an order permitting the well to be drilled at a location other than that specified in the order establishing drilling units.

8) After the date of the notice for a hearing called to establish drilling units, no additional well shall be commenced for production from the pool until the order establishing drilling units has been issued unless the commencement of the well is authorized by order of the Department.

9) After an order establishing a drilling unit or units has been issued by the Department, the commencement of drilling of any well or wells into the pool with regard to which such unit was established for the purpose of producing oil or gas therefrom, at a location other than that authorized by the order, or by order granting exception to the original spacing order is hereby prohibited. (Section 21.1 of the Act) (Ill.-Rev-Stat.-1991--ch.-96-1/2-par.-5433) [225-IEGS-725/21-i]

10) As an alternative to denying the petition for a drilling unit, the Department may issue an interim order outlining the substantive deficiencies that must be cured by the Petitioner in order to avoid dismissal. If the Petitioner supplies the information requested by the Department, a new hearing shall be scheduled in order to examine such documents. If the Petitioner fails to comply with the interim order, the petition shall be denied. The Department shall send notice of such hearing to all parties of record.

## k) Order--Final Administrative Decision

The Director's order is a final administrative decision of the

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Department, pursuant to Section 10 of the Act.

(Source: Amended at 21 Ill. Reg. 113.10 effective 11/10/97)

## Section 240.160 Director's Decision

a) Upon receipt of a notice of violation, the Director of the Department, or his designee, shall conduct an investigation and may affirm, vacate or modify the notice of violation. In determining whether to take action in addition to remedial action necessary to abate a violation the Director shall consider:

1) the person's or permittee's history of previous violations, including violations at other locations and under other permits;

A) A violation shall not be counted if the notice or order is the subject of pending administrative review by the Department under Section 240.180 or if the time to request such review has not expired, and thereafter it shall be counted for only two years after the date of the Department's final administrative decision or a final judicial decision affirming the Department's decision;

B) No violation for which the notice or order has been vacated shall be counted;

2) the seriousness of the violation, including any irreparable harm to the environment or damage to property;

3) the degree of culpability of the person or permittee; and

4) the existence of any additional conditions or factors in aggravation or mitigation of the violation, including information provided by the person or permittee.

b) Modification of the notice of violation may include:

1) any different or additional remedial actions necessary to abate the violation, as set forth in Section 240.150(b)(2), and the time within which the violation must be abated;

2) the assessment of civil penalties not to exceed \$1,000.00 a day for each and every act of violation;

3) probationary or permanent modification or conditions on the permit which may include special monitoring or reporting requirements; and

4) revocation of the permit. (Section 8a of the Act) (iii)--Rev: Stat--1991--ch--96-1/2--par--5413/ 1225-IES-725/8a7

c) The Director shall determine whether or not to assess civil penalties based on the factors set forth in subsection (a) above. If a penalty is assessed by the Department, the penalty shall be computed as follows:

1) Administrative violations, including, but not limited to, the failure to file the reporting, permitting and bond transfer forms required by the Department, the failure to submit information required by the Department pursuant to well file reviews, shall

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be assessed on an permittee-specific basis. The Department may assess up to \$250.00 for an administrative violation as follows:

A) History of Violations:

i) No previous violation of the same rule: add \$25.00-

ii) One previous violation of the same rule: add \$50.00-

iii) Two previous violations of the same rule: add \$100.00-

iv) Three or more previous violations of the same rule: add \$150.00-

B) Permittee's Actions:

i) If the permittee was previously notified of the violation using a routine inspection report (Form OG-22) in accordance with Section 240.140 or correspondence from the Department and failed to comply: add \$100.00-

ii) If the permittee abated the violation within the specified time frame: subtract \$200.00-

iii) If the permittee either substantially abated the violation within the specified time frame or, if all corrective actions were not completed yet the permittee requested and received an extension of the abatement deadline: subtract \$100.00-

2) Operating violations, including, but not limited to, pressure on the annulus, the failure to maintain the well and flow line in a leak-free condition, the failure to maintain lined pits, the failure to configure the wellhead for the inspection of the annulus, the failure to comply with specified permit conditions, the failure to report or clean up a spill and the failure to maintain containment dikes, maintain required performance bond in force for the wells under permit and pay annual well fees, shall be assessed on a permittee-specific basis. Multiple incidents of the same violation against a permittee on the same occasion shall not be considered separate violations. The Department may assess up to \$500.00 for an operating violation as follows:

A) History of Violations:

i) No previous violation of the same rule: add \$50.00-

ii) One previous violation of the same rule: add \$100.00-

iii) Two or more previous violations of the same rule: add \$150.00-

B) Seriousness:

i) If the violation had a low degree of probability to cause environmental damage to soil and/or land surface, vegetation or crops, surface water, ground water, livestock or wildlife: add \$50.00; or, if the violation had a high degree of probability to cause environmental damage to soil and/or land surface, vegetation or crops, surface water, ground water, livestock or wildlife: add \$100.00; or, if the

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violation caused environmental damage to soil and/or land surface, vegetation or crops, surface water, ground water, livestock or wildlife: add \$200.00-

- ii) If the violation created a hazard to the safety of any person, such as the emission of hydrogen sulfide gas: add \$200.00-

## C) Permittee's Actions:

- i) If the permittee was previously notified of the violation using a routine inspection report (Form OG-22) in accordance with Section 240.140 or correspondence from the Department and failed to comply: add \$100.00-
- ii) If the violation occurred as a result of the permittee's lack of reasonable care: add \$50.00; or, if the violation occurred as a result of the permittee's deliberate conduct: add \$200.00-
- iii) If the permittee abated the violation within the specified time frame: subtract \$250.00-
- iv) If the permittee either substantially abated the violation within the specified time frame, or, if all corrective actions were not completed yet the permittee requested and received an extension of the abatement deadline: subtract \$100.00-

- 3) Drilling or operating a well required to be permitted under the Act without first obtaining a permit from the Department, operating a well required to be permitted under the Act without first obtaining the Department's transfer of operating authority or operating an annular or casing injection/disposal well, operating a well in violation of Department spacing requirements, or operating wells by a permittee for whom funds have been expended from the PRF Fund, or if the Department determines that any condition or practice exists, or that any person or permittee is in violation of any requirement of the Act or this Part or any permit condition, which condition, practice or violation creates an imminent danger to the health or safety of the public, or an imminent danger of significant environmental harm or significant damage to property, shall result in the assessment of up to a \$1,000.00 penalty for each and every such violation. (Section 19.1 of the Act). Assessments for these violations are computed as follows:

## A) History of Violations:

- i) No previous violation of the same rule: add \$100.00-
- ii) One or more previous violation of the same rule: add \$500.00-

## B) Seriousness:

- i) If the violation caused environmental damage to surface water, ground water or wildlife: add \$200.00-
- ii) If the violation created a hazard to the safety of any

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person, such as the emission of hydrogen sulfide gas: add \$200.00-

## C) Permittee's Action:

- i) If the violation occurred as a result of the permittee's lack of reasonable care: add \$100.00; or, if the violation occurred as a result of the permittee's deliberate conduct: add \$500.00-
- ii) If the permittee abated the violation within the specified time frame: subtract \$250.00-
- iii) If all corrective actions were not completed, yet the permittee requested and received an extension of the abatement deadline: subtract \$100.00-

- d) Any responsible person who willfully or knowingly authorized, ordered, or carried out any violation cited in the Director's decision shall be subject, after notice, to the same actions, including civil penalties, which may be imposed on the person or permittee under this Section. (Section 8a of the Act) (1117-Rev-Stat--19917-ch-96-172-par-5413) (225-IES-725/004)

- e) The Director or his designee shall serve the person or permittee with his decision at the conclusion of his investigation. The Director's decision shall provide that the person or permittee has the right to request a hearing in accordance with Section 240.180. The Director's decision affirming, vacating or modifying the notice of violation shall be served in accordance with Section 8a of the Act.

- f) A Director's decision not appealed in accordance with Section 240.180 within 30 days after of service shall become a final administrative decision of the Department, pursuant to Section 10 of the Act. The filing of a request for hearing under Section 240.180 shall not operate as a stay of the Director's decision.

- g) The permittee may, within 30 days from the date of service of the Director's Decision, submit to the Department, in writing, any mitigating factors which permittee believes to be relevant to the violation cited in the Director's Decision.

- h) Upon further investigation, the Director of the Department, or his designee, may issue an amended or replacement Director's Decision.

- 1) An Amended Director's Decision shall be issued to:

- A) extend the amount of time provided to complete remedial action necessary to abate the violation set forth in the Director's Decision; or
- B) reduce the civil penalty assessed in the Director's Decision.

- 2) A replacement Director's Decision shall be issued to correct an administrative error contained in the Director's Decision or the Notice of Violation.

- 3) The permittee shall have no right to hearing associated with the issuance of an amended or replacement Director's Decision.

- i) If the Director's decision includes the assessment of a civil penalty, and the person or permittee named in the Director's decision does not



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request a hearing in accordance with Section 240.180 to contest the amount of the penalty, the amount assessed shall be paid to the Department in full within 30 days after of service of the Director's decision.

- j) All civil penalties assessed and paid to the Department shall be deposited in the Underground Resources Conservation Enforcement Fund. (Section 8a of the Act) (1117--Rev--Stat--1991--ch--96-1/2--par-54131225-1868-725/8a)

(Source: Amended at 21 Ill. Reg. 7104, effective JUN 03 1997)

## Section 240.180 Enforcement Hearings

- a) A person or permittee shall have 30 days from the date of service of the Director's decision or of the cessation order to request a hearing. (Section 8a of the Act) (225-1868-725) Except as provided in subsection (b) below, a person or permittee seeking to contest any Director's decision in which a civil penalty has been assessed shall submit the assessed amount to the Department together with a timely request for hearing. The assessed amount shall be held in an interest-bearing escrow account deposited by the Department pending the outcome of the hearing. The assessed amount together with any interest shall be refunded returned to the person or permittee at the conclusion of the hearing if the Department does not prevail. All requests for hearing shall be mailed or delivered to the Illinois Department of Natural Resources office located in of Mines and Minerals-011 and Gas Division, Springfield, Illinois.

- b) If a civil penalty assessment is imposed against a person pursuant to Section 240.160(d), such person will not be required to prepay the penalty into escrow in order to contest either the amount of the penalty or the fact of the violation.

- c) Upon receipt of a request for hearing submitted in accordance with subsections (a) or (b), the Department shall provide an opportunity for a formal hearing upon not less than 5 days written notice mailed to the permittee or person submitting the hearing request. (Section 8a of the Act) (225-1868-725/8a) The hearing shall be conducted by an impartial hearing officer not employed by the Department and shall be conducted in accordance with the following procedures:

- 1) A pre-hearing conference:
  - A) shall be scheduled within 30 days after of the request for hearing:
    - iA) to define the factual and legal issues to be litigated at the administrative hearing;
    - iiB) to determine the timing and scope of discovery available to the parties;
    - iiiE) to set a date for the parties to exchange all documents they intend to introduce into evidence

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during the hearing, a list of all witnesses the parties intend to have testify and a summary of the testimony of each such witness;

- ivB) to schedule a date for the administrative hearing; and  
vB) to arrive at an equitable settlement of the hearing request, if possible.

- B) F) Pre-hearing conferences under this Section may be conducted via telephone conference if such procedure is acceptable to all parties to the hearing. In the event that a telephone conference is not acceptable to all parties, the pre-hearing conference shall be conducted the place designated by the hearing officer.

- C) G) Either party may file motions for default judgment, motions for summary judgment, motions for protective orders and motions for orders compelling discovery. The Department's hearing officer shall render an order granting or denying such motions filed within fifteen--15 days after of service. Any order granting a motion for default judgment or a motion for summary judgment shall constitute the Department's final administrative decision as to the Director's Decision or cessation order being contested.

- 2) If a settlement agreement is entered into at any stage of the hearing process, the person to whom the notice of violation or cessation order was issued will be deemed to have waived all right to further review of the violation or civil penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect. All settlement agreements shall be executed by the hearing officer and shall constitute the Department's final administrative decision as to the Director's Decision or cessation order being contested.

- 3) All hearings under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10]. All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois. However, the Department may conduct a hearing under this Section at a site located closer than Springfield, Illinois, to the production and/or injection/disposal well identified in the Director's decision or cessation order being contested if facilities are available and convenient satisfactory to the Department.

- 4) At the hearing the Department shall have the burden of proving the facts of the violation alleged in the notice of violation or cessation order at issue. The amount of any civil penalty assessed shall be presumed to be proper; however, the operator may offer evidence to rebut this presumption. The standard of proof shall be a preponderance of the evidence. The person or permittee shall have the right to challenge the hearing officer

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if the person or permittee believes the hearing officer is prejudiced against him or has a conflict of interest. If the hearing officer disqualifies himself, the Director shall designate a new hearing officer. The hearing officer shall conduct the hearing, hear the evidence and at the conclusion of the hearing render recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case.

- 5) The Director shall review the administrative record in a contested case, in conjunction with the hearing officer's recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case. The Director shall then issue the Department's final administrative decision affirming, vacating or modifying the hearing officer's decision.
- d) The person or permittee's failure to request a hearing in accordance with subsection (a) shall constitute a waiver of all legal rights to contest the Director's decision or the cessation order, including the amount of any civil penalty assessed. Within 30 days of the close of the hearing record or expiration of the time to request a hearing, the Department shall issue a final administrative decision, pursuant to Section 10 of the Act. (Section 8a of the Act)

(Source: Amended at 21 Ill. Reg. 7164, effective June 18, 1997)

## Section 240.190 Temporary Relief

- a) Pending the holding of a hearing or entry of a final administrative decision relating to a cessation order issued under Section 240.170, the person or permittee affected by the Department's action may file a written request for temporary relief from the cessation order, together with a detailed statement giving reasons for granting such relief. (Ill.-Rev.-Stat.-1991, ch-96-1/27-par--5413) (Section 8a of the Act) The person or permittee shall serve the request for temporary relief within 14 days after service of the cessation order.
- b) The Department shall commence a hearing within 5 days after receipt of a timely request for temporary relief and may grant such relief, under such conditions as it may prescribe, if the person or permittee requesting temporary relief shows a substantial likelihood that the findings of the Department will be favorable to him and such relief will not adversely affect the health or safety of the public or cause significant environmental harm or significant damage to property. (Section 19.1 of the Act) (Ill.-Rev.-Stat.-1991, ch--96-1/27--par--5426)

- c) All hearings under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act. All hearings under this Section shall be conducted in the Department's offices located at--300--West--Jefferson--Street--Suite--3007 in Springfield,

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- d) The Department's hearing officer shall issue a final administrative decision granting or denying temporary relief from the cessation order within 7 days after the close of the administrative record, pursuant to Section 10 of the Act.

(Source: Amended at 21 Ill. Reg. 7134, effective June 18, 1997)

## SUBPART B: PERMIT APPLICATION PROCEDURES FOR PRODUCTION WELLS

## Section 240.210 Application for Permit to Drill, Deepen or Convert to a Production Well

- a) No person shall drill, deepen or convert any well to a production well without a permit from the Department.
- b) Application for a permit to drill, deepen or convert to a production well shall be made on forms prescribed by the Department. The application shall be executed under penalties of perjury, and accompanied by the non-refundable fee of \$100.00 and the required bond under Subpart Q Subpart-B.
- c) If the application does not contain all of the required information or documents, the Department shall notify the applicant in writing. The notification shall specify the additional information or documents necessary to an evaluation of the application, and shall advise the applicant that the application will be deemed denied unless the information or documents are submitted within sixty--t 60+ days following the date of notification.

- d) Any well for which a permit is required under the Act, other than a plugged well, which was drilled prior to the effective date of the Act and for which no permit has previously been issued, is required to be permitted. Application for a permit shall be made on forms prescribed by the Department. The application shall be executed under penalties of perjury, and accompanied by the required bond under Subpart Q and existing well construction information reported on Department forms Subpart--B. If application is made on or before August 14, 1991, no permit fee is required. An application made after that date shall be accompanied by the non-refundable fee of \$100.00. Spacing requirements and provisions of the Act and these rules pertaining to well construction shall not apply. After August 14, 1991, any unpermitted well to which this Subpart applies will be deemed to be operating without a permit and subject to the penalties set forth in the Act. (Section 12 of the Act) (Ill.-Rev.--Stat--1990--Supp--7--ch-96-1/27-par--5410)

(Source: Amended at 21 Ill. Reg. 7134, effective June 18, 1997)



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## Section 240.230 Authority of Person Signing Application

- a) The application for a permit to drill, deepen, or convert to a production well shall identify whether the owner of the right to drill and to operate the well is an individual, partnership, corporation or other entity, and shall contain the address and signature of the owner or person authorized to sign for such owner.
- b) If the owner is an individual, the application shall be signed by the individual. If the owner is a partnership, the application shall be signed by a general partner. If the owner is a corporation, the application shall be signed by an officer of the corporation.
- c) In lieu of the signature of the owner or such authorized person, the application may be signed by a person having a power of attorney to sign for such owner or authorized person, provided a certified copy of the power of attorney is on file with the Department or accompanies the application.
- d) The entity or person to whom the permit is issued shall be called the Permittee and shall be responsible for all regulatory requirements relative to the well.
- e) If the applicant is a corporation, the charter must authorize the corporation to engage in the permitted activity, and the corporation must be incorporated or authorized to do business in the State of Illinois.
- f) If the applicant is an individual, partnership, or other unincorporated entity that is not a resident of Illinois, provide an irrevocable consent to be sued in Illinois.
- g) If the applicant has been issued a FEIN, that number must be reported on the application.

(Source: Amended at 21 Ill. Reg. 71343, effective 1/18/2000)

## Section 240.250 Issuance of Permit to Drill

- a) If the applicant satisfies requirements of the Act and Rules the Department shall issue a permit.
- b) A permit shall not be issued to an applicant where:
  - a--final administrative order--of--the--Department--is--outstanding--against--the applicant--or--against--a--person--or--permittee--who--is--an--officer, director, partner--or--owner--of--more--than--a--5%--interest--of--the applicant, where obligated funds from the plugging and restoration fund--are--outstanding--under--Subpart P7--or--where annual well fees are outstanding under Subpart Q;
  - 1) the applicant has falsified or otherwise misstated any information on or relative to the permit application;
  - 2) the applicant has failed to abate a violation of the Act specified in a final administrative decision of the Department;
  - 3) an officer, director, partner, or person with an interest in the

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- applicant exceeding 5% failed to abate a violation of the Act specified in a final administrative decision of the Department.
- 4) the applicant is an officer, director, partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Act specified in a final administrative decision of the Department (Section 8a of the Act
- 5) funds have been obligated and remain outstanding from the Plugging and Restoration Fund to plug wells, under Subpart P, for which the applicant was a previous permittee or the applicant was an officer, director, partner or person with an interest exceeding 5% in a permittee for which funds were obligated; or
- 6) the applicant is delinquent in the payment of Annual Well Fees or is an officer, director, partner or person with an interest exceeding 5% in another permittee who is delinquent in payment of Annual Well Fees.
- c) Permits shall expire one year from the date of issuance unless acted upon by commencement of drilling, deepening or converting operations authorized by the permit, which are to be continued with due diligence, but not to exceed two (2) years from date of commencement of drilling or conversion operations, at which time the well shall be plugged, production casing set, conversion operations completed or well re-permitted. If the drilling rig is removed prior to the expiration of the permit, any further drilling or deepening shall require re-permitting.
- d) Permits are not transferable prior to the drilling of the well.
- e) If during drilling the well is lost (collapsed casing or hole, etc.) the permittee may terminate drilling and move the rig up to 30 feet from the permitted location and commence drilling operations, provided that:
  - 1) the permittee notifies the District Office prior to the move and receives approval;
  - 2) a new application and fee is submitted within ten (10) days in accordance with Section 240.220 of this Part; and
  - 3) the new location is in compliance with all other requirements of this Part.
- f) The Department shall revoke a permit that was issued in error or if the application contained an error or misrepresentation or the Permittee fails to meet permit conditions.
- g) The Department shall notify the permittee of their intent to revoke a permit effective thirty (30) days from the date of notice unless a hearing is requested in accordance with subsection (h) below.
- h) If a written objection to the revocation is filed within thirty (30) days after the date of the notice:
  - 1) A pre-hearing conference shall be held within fifteen (15) days after the receipt after the request for hearing.
  - A) A pre-hearing conference shall be scheduled in order to:
    - 1) Simplify the factual and legal issues presented by the hearing request;



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- ii) Receive stipulations, admissions, of fact and of the contents and authenticity of documents;
- iii) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce at the hearing;
- iv) Set a hearing date; and
- v) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.
- B) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all parties.
- 2) All hearings under this Subpart shall be conducted in the Department's offices located in Springfield, Illinois.
- i) At the hearing, the Department shall present evidence in support of its determination under subsection (f) above. The permittee may present evidence contesting the Department's determination under subsection (f) above. The hearing officer may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance of witnesses or production of those materials, compel discovery, and take evidence.
- j) Within thirty (30) days after the close of the record or the receipt of the transcript of the hearing, the Department shall render a decision.
- k) The permittee's failure to request a hearing in accordance with subsection (h) shall constitute a waiver of all legal rights to contest the permit revocation decision. Upon the expiration of the time to request a hearing, the Department shall issue a final administrative decision pursuant to Section 10 of the Act.

(Source: Amended at 21 Ill. Reg. effective 7/16/97)

## Section 240.251 Revocation of Permit to Drill

- a) The Department shall revoke a permit if:
- 1) The permittee fails to meet permit conditions;
  - 2) The permit was issued in error;
  - 3) the applicant has falsified or otherwise misstated any information on or relative to the permit application;
  - 4) the applicant has failed to abate a violation of the Act specified in a final administrative decision of the Department;
  - 5) an officer, director, partner, or person with an interest in the applicant exceeding 5% failed to abate a violation of the Act specified in a final administrative decision of the Department; or
  - 6) the applicant is an officer, director, partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Act specified in a final administrative

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- decision of the Department. (Section 8a of the Act)
- b) The Department shall notify the permittee of the Department's intent to revoke a permit effective 30 days from the date of notice unless a hearing is requested in accordance with subsection (c) below.
- c) If a written objection to the revocation is filed within 30 days after the date of the notice:
- 1) A pre-hearing conference shall be held within 15 days after the receipt of the request for hearing.
    - A) A pre-hearing conference shall be scheduled in order to:
      - i) Simplify the factual and legal issues presented by the hearing request;
      - ii) Receive stipulations and admissions of fact and of the contents and authenticity of documents;
      - iii) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing;
      - iv) Set a hearing date; and
      - v) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.
    - B) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all parties.
  - 2) All hearings under this Subpart shall be conducted in the Department's offices located in Springfield, Illinois.
  - d) At the hearing, the Department shall present evidence in support of its determination under subsection (a) above. The permittee may present evidence contesting the Department's determination under subsection (a) above. The hearing officer may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance of witnesses or production of those materials, compel discovery, and take evidence.
  - e) Within 30 days after the close of the record or the receipt of the transcript of the hearing, the Department shall render a decision.
  - f) The permittee's failure to request a hearing in accordance with subsection (c) shall constitute a waiver of all legal rights to contest the permit revocation decision. Upon the expiration of the time to request a hearing, the Department shall issue a final administrative decision, pursuant to Section 10 of the Act.

(Source: Added at 21 Ill. Reg. effective 7/16/97)

Section 240.255 Underground Injection and Disposal Projects--(Revised)

Conversion of a Production Well to a Water Well

Production wells may not be converted to water wells requiring a permit from the Illinois Department of Public Health.

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(Source: Added at 21 Ill. Reg. 713437 effective JAN 11 1997)

## SUBPART C: PERMIT APPLICATION PROCEDURES FOR CLASS II UTC WELLS

## Section 240.380 Issuance of Permit

- a) If the applicant satisfies the requirements of the Act and this Part Rules, the Department shall issue a permit.
- b) A permit shall not be issued to an applicant where:
  - a--final administrative order of the Department is outstanding against the applicant or against a person or permittee who is an officer, director, partner or owner of more than a 5% interest of the applicant, or where obligated funds from the plugging and restoration fund are outstanding under Subpart P, or where annual well fees are outstanding under Subpart G;
  - 1) the applicant has falsified or otherwise misstated any information on or relative to the permit application;
  - 2) the applicant has failed to abate a violation of the Act specified in a final administrative decision of the Department;
  - 3) an officer, director, partner, or person with an interest in the applicant exceeding 5% failed to abate a violation of the Act specified in a final administrative decision of the Department;
  - 4) the applicant is an officer, director, partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Act specified in a final administrative decision of the Department (Section 8a of the Act);
  - 5) funds have been obligated and remain outstanding from the Plugging and Restoration Fund to plug wells, under Subpart P, for which the applicant was a previous permittee or the applicant was an officer, director, partner or person with an interest exceeding 5% in a permittee for which funds were obligated; or
  - 6) the applicant is delinquent in the payment of Annual Well Fees or is an officer, director, partner or person with an interest exceeding 5% in another permittee who is delinquent in payment of Annual Well Fees.
- c) Permits shall expire one year from the date of issuance unless acted upon by commencement of drilling, deepening or converting operations authorized by the permit, which are to be continued with due diligence, but not to exceed one--17 year from the date of commencement of drilling or conversion operations, at which time the well shall be plugged, production casing set, conversion operations completed or well repermitted.
- d) Permits are not transferable prior to the drilling of the well.
- e) If during drilling the well is lost (collapsed casing or hole, etc.), the permittee is required to submit a new application, and receive a permit prior to drilling an offset well.
- f) The Department shall revoke a permit that was issued in error or if

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- g) The application contained an error or misrepresentation. The Department shall notify the permittee of its intent to revoke a permit effective thirty--307 days from the date of notice unless a hearing is requested in accordance with subsection (h) below.
- h) If a written objection to the revocation is filed within thirty--307 days after the date of the notice:
  - 1) A pre-hearing conference shall be held within fifteen--157 days after the receipt after the request for hearing.
    - A) A pre-hearing conference shall be scheduled in order to:
      - i) Simplify the factual and legal issues presented by the hearing request;
      - ii) Receive stipulations, admissions of fact and of the contents and authenticity of documents;
      - iii) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing;
      - iv) Set a hearing date; and
      - v) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.
    - B) Pre-hearing conferences may be held by telephone conferences if such procedure is acceptable to all parties.
  - 2) All hearings under this Subpart shall be conducted in the Department's offices located in at--300--West--Jefferson--Street, Suite--3007, Springfield, Illinois.
    - i) At the hearing, the Department shall present evidence in support of its determination under subsection (f) above. The permittee may present evidence contesting the Department's determination under subsection (f) above. The hearing officer may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance of witnesses or production of those materials, compel discovery, and take evidence.
    - j) Within thirty--307 days after the close of the record or the receipt of the transcript of the hearing, the Department shall render a decision.
    - k) The permittee's failure to request a hearing in accordance with subsection (h) shall constitute a waiver of all legal rights to contest the permit revocation decision. Upon the expiration of the time to request a hearing, the Department shall issue a final administrative decision, pursuant to Section 10 of the Act.

(Source: Amended at 21 Ill. Reg. 713437, effective JUN 11 1997)

## Section 240.385 Conversion of a Class II Well to a Water Well

Class II wells may not be converted to water wells requiring a permit from the Illinois Department of Public Health.



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(Source: Added at 21 Ill. Reg. 7134, effective July 1, 1997)

## SUBPART D: SPACING OF WELLS

## Section 240.420 Well Location Exceptions within Drilling Unit

a) Whenever the topographical conditions (e.g., hills, creeks, ponds, lakes) or cultural features (e.g., buildings, roadways, powerlines, pipelines) of a drilling unit render it impractical to drill an oil or gas well at a location conforming to the requirements of Section 240.410, an oil or gas well may be drilled at a nonconforming location as follows:

- 1) The permittee is allowed, without prior approval from the Department, to move the location maximum of ~~thirty~~ thirty feet from the permitted location, provided the amended location is not closer than 330 feet (or other applicable setback) to the nearest lease boundary line, and provided the amended location is surveyed and an amended application, showing the amended location and the reason the location was moved, is submitted to the Department within ~~ten~~ ten days of moving the location.
- 2) If the proposed well location is more than ~~thirty~~ thirty feet from a location conforming to the requirements of Section 240.410, an application must be submitted showing the proposed location and the reason the location is requested. Approval for such location must be received from the Department prior to the commencement of drilling. If the proposed location is less than 330 feet (or other applicable setback) from the nearest lease boundary line, the application shall be accompanied by a written agreement or agreements between the applicant and any leaseholders or mineral rights owners (if no leaseholder exist) whose leases or mineral rights are adjacent to and less than 330 feet (or other applicable setback) from the proposed location. In lieu of the submission of a written agreement or agreements, the applicant shall give notice by certified mail, return receipt requested, to any leaseholders or mineral rights owners (if no leaseholders exist) whose leases or mineral rights are adjacent to and less than ~~three-hundred~~ thirty feet (or other applicable setback) from the proposed location. The notice shall include the proposed location of the well and the reason the location is requested, and shall inform the leaseholders or mineral rights owners that they may file written objections with the Department within ~~fifteen~~ thirty days after service of the notice. If a written objection is received, the matter shall be set for hearing, which shall be conducted in accordance with the provisions of Section 240.370(d) of this Part.
- 3) In determining whether to approve a proposed nonconforming location, the Department will consider the feasibility and

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expense of drilling on location, any hazard or damage to persons or property or to the environment, and whether the proposed location would adversely affect the correlative rights of any of the owners of the reservoir or result in waste or the drilling of unnecessary wells.

- b) If at the time of application, a lease immediately adjacent to a proposed drilling unit has producing wells located less than 330 feet from the common boundary line, then a well on the proposed drilling unit may be located at a distance closer than 330 feet but no closer than the distance to the common boundary line of the immediately offsetting well.
- c) If a drilling unit is located over an active mine, the mined-out or inaccessible portion of an active mine, an abandoned mine, or the undeveloped limits of a mine, the proposed well can be located so that it will be drilled into an existing or proposed mine pillar subject to the conditions and limitations set forth in subsections (a) and (b) above.
- d) If during drilling the well is lost (collapsed casing or hole, etc.), the permittee may terminate drilling and move the rig up to 30 feet from the permitted location and commence drilling operations, provided that:
  - 1) the permittee notifies the District Office prior to the move and receives approval;
  - 2) a new application and fee is submitted within 10 days in accordance with Section 240.220 of this Part; and
  - 3) the new location is in compliance with all other requirements of this Part.

(Source: Amended 1997 at 21 Ill. Reg. 7134, effective July 1, 1997)

## Section 240.455 Horizontal Drilling

- a) For purposes of this Subpart a horizontal well is a wellbore which has an overall length within the reservoir of twice the thickness of the reservoir.
- b) An oil or gas production well may be developed with one or more horizontal drainholes drilled from a single vertical wellbore and may shall be considered a single well and permitted in accordance with the provisions of Subpart B.
- c) If the proposed horizontal well will be part of an enhanced oil recovery project, the spacing requirements for all portions of the horizontal drainholes shall comply with Section 240.430(b).
- d) If the proposed well is to be a primary recovery well, the spacing requirements for all portions of the horizontal drainholes shall comply with Section 240.410, or if a modified or special drilling unit is requested, in compliance with Section 240.460 and/or 240.465.



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(Source: Amended at 21 Ill. Reg. 7134, effective April 1, 1993)

## Section 240.460 Modified Drilling Unit

a) Upon application of any person having an interest in oil or gas in a lease or drilling unit, the Department shall schedule a hearing to consider a petition for modification of the location of the standard drilling unit described in Section 240.410, based on geologic or engineering characteristics of the reservoir, relative to the land survey system and ~~and--setback-requirements~~ specified in Section 240.410 and well density specified in Section 240.465 of this Part.

b) Contents of petition shall include:

- 1) the name and address of the petitioner;
- 2) the petitioner's geologic or engineering reason for requesting a modified drilling unit; and
- 3) a legal land description of the drilling unit sought to be established.

c) ~~b~~ Execution and Filing

1) The petition to modify a drilling unit in accordance with this Section or establish a special drilling unit in accordance with Section 240.465 shall be filed with the Illinois Department of Mines--and--Minerals--Oil--and--Gas--Division, Offices located in Springfield, Illinois. The petition shall be deemed filed when it is received by the Department's Division of Oil and Gas Department--Oil--and--Gas--Division.

2) Every petition shall be signed by the petitioner or his representative and his address shall be stated thereon. The signature of the petitioner or his representative constitutes a certificate by him that he has read the petition and that to the best of his knowledge, information and belief there is good ground to support the same.

3) If after the petition is filed, and prior to setting a hearing date, the Department finds the petition deficient relative to the requirements of subsection (b) above, the Department shall return the petition to the applicant with a statement as to the deficiencies.

d) ~~e~~ Notice of hearing shall be given by the applicant to all mineral owners within the boundaries set forth in the application, and to all permittees having oil or gas wells within ~~one-half-~~ 1/2 mile of the boundaries of the lease or drilling unit, which are completed in the proposed zone of production, by U.S. Postal Service certified mail, return receipt requested, and by publication in a newspaper of general circulation in each county in which any portion of the proposed lease or drilling unit or units is located, at least ~~ten-~~ 10 days prior to the hearing.

e) ~~d~~ Pre-Hearing Conferences

1) Upon his own motion or the motion of a party, the Hearing Officer

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shall direct the parties or their counsel to meet with him for a conference in order to:

- A) Simplify the factual and legal issues presented by the hearing request;
- B) Receive stipulations, admissions of fact and of the contents and authenticity of documents;
- C) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and
- D) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.

2) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all parties.

f) ~~e~~ Hearing

1) Conduct of Hearing: Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall take all necessary action to avoid delay, to maintain order and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including the following:

- A) To administer oaths and affirmation;
- B) To receive relevant evidence;
- C) To regulate the course of the hearing and the conduct of the parties and their counsel therein;
- D) To consider and rule upon procedural requests;
- E) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony and set reasonable limits on the amount of time each witness may testify;
- F) To require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record.

2) Every person desiring to participate in the hearing shall enter his appearance by stating his name and address. Thereafter, such person shall be deemed a party of record.

3) All participants in the hearing shall have the right to be represented by counsel.

4) The Hearing Officer shall allow parties to present statements, testimony, evidence and arguments as may be relevant to the preceding.

5) At least one representative of the Department shall appear at any hearing held under this Section and shall be given the opportunity to question parties or otherwise elicit such information as is necessary to reach a decision on the petition.

6) Where applicable, the following shall be addressed prior to receiving evidence:

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- A) The petitioner may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of publication and orders previously entered in the cause.
- B) Ruling may be made on any pending motions.
- C) Any other preliminary matters appropriate for disposition prior to presentation of evidence.

h)†† Evidence

- 1) Admissibility: A party shall be entitled to present his case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence received by the presiding Hearing Officer shall exclude evidence which is irrelevant, immaterial or unduly repetitious. The rules of evidence and privilege applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under such rules of evidence may be admitted, except where precluded by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.

- 2) Official Notice: Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of such fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge.

- 3) Order of Proof: The petitioner shall open the proof. Other parties of record shall be heard immediately following the petitioner. The Hearing Officer or Department representatives may examine any witnesses. In all cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.

- 4) Briefs: The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing Officer shall determine as being consistent with the Department's responsibility for an expeditious decision.

h)†† Record of Proceedings; Testimony

The Department shall provide at its expense a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing. Any person testifying shall be required to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Department as such and included in the record.

- h)†† Postponement or Continuance of Hearing  
A hearing may be postponed or continued for due cause by the Hearing

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Officer upon his own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing.

h)†† Default

If a party, after proper service of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed to make its decision in the absence of such party. If the failure to appear at such pre-hearing conference or hearing is due to an emergency situation beyond the parties' control, and the Department is notified of such situation on or before the scheduled pre-hearing conference or hearing date, the pre-hearing conference or hearing will be continued or postponed pursuant to Section 240.130(h). Emergency situations include sudden unavailability of counsel, sudden illness of a party or his representative, or similar situations beyond the parties' control.

k)†† If the Department finds, based on the reservoir's geological and engineering characteristics, that a modified drilling unit or units is necessary to prevent waste, to protect correlative rights, and to prevent the unnecessary drilling of wells, the Department shall enter an order establishing such drilling unit or units. Each order shall:

- 1) specify the location of each drilling unit relative to the land survey system; and
- 2) specify the set back from the drilling unit boundaries for the location of the oil or gas well on each drilling unit.

l)†† Order--Final Administrative Decision

The Director's order is a final administrative decision of the Department, pursuant to Section 10 of the Act.

(Source: Amended at 21 Ill. Reg. 7134, effective June 18, 1991)

## Section 240.465 Special Drilling Unit

- a) Upon application of any person having an interest in oil and gas in a lease or drilling unit, the Department shall schedule a hearing to consider a petition for consider the establishment of a special drilling unit for:

- 1) a drilling unit size (acreage) and shape spacing other than specified in Section 240.410; or
  - A) provided well density specified in Section 240.430(a) is maintained; and
  - B) a standard drilling unit cannot be formed utilizing the integration provisions of Section 240.132.
- 2) for the purpose of horizontal drilling in accordance with Section 240.455.

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## b) Contents of petition shall include:

- 1) the name and address of the petitioner;
- 2) the petitioner's reason for requesting a special drilling unit including the submission of supporting geologic and engineering data; and
- 3) a legal land description of the drilling unit sought to be established.

c) Applications to establish a special drilling unit based on ~~directional drilling~~ shall be processed in accordance with the petition filing, execution and hearing spacing provisions specified under Section 240.460(c)(4) through (11)(4).

(Source: Amended at 21 Ill. Reg. 723.403 effective JUN 03 1997)

### Section 240.470 Establishment of Pool-Wide Drilling Units Based Upon Reservoir Characteristics

a) Upon application of any person having an interest in oil or gas in all or a portion of a reservoir, the Department shall consider the establishment of pool-wide drilling units other than specified in Section 240.410 of this Part for all or a portion of a reservoir for the production of oil or gas.

b) Applications to establish pool-wide drilling units based upon reservoir characteristics shall be processed in accordance with Section 240.133 of this Part.

c) The following pool-wide oil well spacing is established by the Department.

- 1) Ten (10) acre spacing is established for the Devonian and Silurian Limestone in Sections 16, 17, 20, 21 and 29 of Township 3 North, Range 3 West, Schuyler County, Illinois, known as the Brooklyn Pool.

2) Ten (10) acre spacing is established for the Devonian and Silurian Limestone in Sections 29, 30, 31 and 32 of Township 1 South, Range 3 West, Sections 24, 25, 26, 33, 34, 35 and 36 of Township 1 South, Range 4 West, Sections 5, 6 and 8 of Township 2 South, Range 3 West and Sections 1, 2, 3 and 4 of Township 2 South, Range 4 West, Brown County, Illinois, known as the Buckhorn Consolidated Pool.

3) Ten (10) acre spacing is established for the Devonian and Silurian Limestone in Sections 8, 9, 15, 16 and 17 of Township 2 South, Range 4 West, Brown County, Illinois, known as the Silloom Pool.

4) Ten (10) acre spacing is established for the Devonian and Silurian Limestone in Sections 6 and 7 of Township 1 North, Range 1 West, Sections 1, 2 and 12 of Township 1 North, Range 2 West and Sections 35 and 36 of Township 2 North, Range 2 West, Schuyler County, Illinois, known as the Rushville Central Pool.

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5) Ten (10) acre spacing is established for the Devonian and Silurian Limestone in Sections 25 and 36 of Township 1 South, Range 5 West, Sections 1, 2, 10, 11 and 12 of Township 2 South, Range 5 West, Adams County, Illinois and in Section 7 of Township 2 South, Range 4 West, Brown County, Illinois, known as the Kellerville Pool.

6) Ten (10) acre spacing is established for the St. Louis Limestone (Mississippian) in Sections 6, 7, 18 and 19 of Township 11 North, Range 11 East and Sections 3, 4, 5, 6, 7, 8, 9, 10, 16, 17, 18, 19, 20, 21, 28, 29 and 30 of Township 11 North, Range 14 West, Clark County, Illinois, known as the Westfield Pool.

7) Ten (10) acre spacing is established for the St. Louis/Salem (Mississippian) Limestone in Sections 31, 32, 33 and 34 of Township 12 North, Range 14 West, Clark County, Illinois, known as the Westfield Pool.

8) Ten (10) acre spacing is established for the St. Louis/Salem (Mississippian) Limestone in Sections 2, 3, 10, 11, 12 and 13 of Township 9 North, Range 14 West and in Sections 14, 15, 22, 23, 24, 25, 26, 35 and 36 of Township 10 North, Range 14 West, Clark County, Illinois, known as the Martinsville Pool.

9) Ten (10) acre spacing is established for the St. Louis/Salem (Mississippian) Limestone in Sections 22, 23, 26, 27, 34 and 35 of Township 9 North, Range 14 West, Clark County, Illinois, known as the Johnson South Pool.

10) Ten (10) acre spacing is established for the Trenton Limestone in Sections 34 and 35 of Township 1 South, Range 10 West and in Sections 2, 3, 11 and 24 of Township 2 South, Range 10 West, Monroe County, Illinois, known as the Waterloo Pool.

11) Ten (10) acre spacing is established for the Trenton Limestone in Sections 27, 33 and 34 of Township 1 North, Range 10 West, St. Clair County, Illinois, known as the Dupo Pool.

12) Ten acre spacing is established for the Silurian (reef section) in the S1/2 SE1/4 and south 12 acres of fractional SW1/4 of Section 18: S1/2 SW1/4 of Section 17: NW1/4 and NE1/2 SW1/4 and SW1/4 SW1/4 of Section 20; all of Section 19 except the W1/2 S1/2 of fractional SW1/4, all located in Township 2 South, Range 3 West, Washington County, known as the Nashville Pool.

d) The following pool-wide natural gas spacing is established by the Department.

One hundred sixty Hundred-Sixty-(160) acre spacing is established for the New Albany Shale Gas in the West half of Section 5, and all of Sections 6, 7, 8, 17, 18, 19 and 20 of Township 4 North, Range 10 West and in Sections 1, 2, 11, 12, 13 and 14 and the East half of Section 24, of Township 4 North, Range 11 West, Lawrence County, Illinois.

(Source: Amended at 21 Ill. Reg. 723.403 effective JUN 03 1997)



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SUBPART E: WELL DRILLING,  
COMPLETION AND WORKOVER REQUIREMENTS

## Section 240.530 Completion Fluid and Completion Fluid Waste Handling and Storage

- a) Completion Fluid Handling and Storage Prior to Use  
If completion fluids are temporarily stored at the well site prior to use in completion activities, the fluids shall be stored in a lined completion pit or leak free above ground container.
- b) Completion Fluid Waste Handling and Storage  
Completion fluid wastes generated from the well during completion activities shall be collected at the well site in a completion pit or leak free above ground container. A pit used for this purpose need not be lined.
- c) Completion and Workover Pits

1) Pits used for completion fluids and completion fluid wastes shall be constructed with sufficient capacity to contain the fluids within the pits, and maintained in a manner that reasonably prevents against overflow during completion or workover activities and prior to commencing pit restoration in accordance with Section 240.540 of this Part. Discharge of completion fluids and completion fluid wastes from the pits into any surface water or water drainage way is prohibited.

2) The sediment pit or the drilling fluid circulation pit used during drilling operations may be used for the collection of completion fluid wastes during completion activities. If either pit is used as a completion pit, drill cuttings and drilling fluids shall first be removed and a dike constructed to prevent completion fluid wastes from entering the other pit.

3) Completion or workover pits used to store completion fluids prior to use in the well shall be lined with a liner at least 20 mils in thickness.

4) Completion or workover pits shall be used only for the temporary storage of completion fluids and completion fluid wastes in accordance with the requirements of this subsection, and shall not be used for the disposal of general oilfield wastes.

(Source: Amended at 21 Ill. Reg. 7154, effective 7/1/84)

## Section 240.540 Drilling and Completion Pit Restoration

- a) Sediment, drilling fluid circulation and reserve pits, except sediment pits used as completion pits, shall be filled and leveled within six-6 months after drilling ceases. Drilling fluid wastes may be disposed of by on-site burial or surface application. Saltwater or Oil Drilling Fluid wastes shall be removed from the site and disposed of in an Illinois Environmental Protection Agency permitted special

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waste landfill, injected in a Class II well, disposed of in a well during the plugging process or buried in one of the lined pits and the liner folded over and an additional liner material added to completely cover the drilling waste and buried at least 5 three-3 feet below the ground surface.

- b) If surface application is used for disposal of drilling fluid wastes (prohibited for Saltwater or Oil Based Drilling Fluids), the wastes shall be landspread, incorporated and stabilized to limit run off of storm water containing drilling fluid waste. Discharge of drilling fluid waste into surface waters or water drainage ways is prohibited.
- c) Drilling pits used as completion pits in accordance with Section 240.530(c)(2) of this Subpart shall be filled and leveled within six-6 months after completion activities cease. Newly constructed completion or workover pits shall be filled and leveled within ninety-90 days after completion or workover activities cease. All completion or workover fluid wastes shall be removed from the pit and disposed of in a Class II Injection well (or in above ground tanks of containers pending disposal) prior to restoration. Any remaining residue not removed can be disposed of through on-site burial. Only residue from that particular well on which completion or workover activities were performed can be disposed of by on-site burial.
- d) All drilling, completion and workover pits shall be filled and leveled in a manner that allows the site to be returned to original use with no subsidence or leakage of fluids, and where applicable, with sufficient compaction to support farm machinery.

(Source: Amended at 21 Ill. Reg. 7154, effective 7/1/84)

## Section 240.550 Disposal of General Oilfield Wastes and Other Wastes

All general oilfield wastes generated during drilling, and completion and workover activities shall be temporarily stored in on-site containers, and shall be removed from the site prior to or at the conclusion of the given activity and disposed of in accordance with the Federal Resource Conservation and Recovery Act of 1976. General oilfield wastes shall not be disposed of through on-site burial, in drilling or completion pits, or through mixing with drilling fluid or completion fluid wastes prior to disposal.

(Source: Amended at 21 Ill. Reg. 7154, effective 7/1/84)

SUBPART F: WELL CONSTRUCTION, OPERATING, AND REPORTING REQUIREMENTS FOR  
PRODUCTION WELLS

## Section 240.605 Drilled Out Plugged Hole (DOPH) Notification

The permittee shall notify the District Office for the county in which the well

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is located 24 hours prior to commencing drilling of a drilled out plugged hole (DOPH).

(Source: Added at 21 Ill. Reg. 7104, effective January 1, 1997)

## Section 240.610 Construction Requirements for Production Wells

a) Surface Casing Requirements for Wells Drilled After the May 13, 1994 Effective-Date-of-this-Section

1) Steel surface casing or fiberglass casing meeting API standards shall be set to a depth of at least one-hundred-~~4~~ 100 feet, or fifty-~~4~~ 50 feet below the base of the fresh water, whichever is deeper.

2) Surface casing or alternative surface casing shall be set under the supervision of a representative of the Department and the permittee shall give at least twenty-four-~~4~~ 24 hours notice to the District Office prior to setting the surface casing.

3) Surface casing shall be cemented in place by circulating cement behind the surface casing from the setting depth of the casing to the surface.

4) The cement shall be allowed to set in place until it has developed sufficient strength to allow drilling to resume, but no less than four-~~4~~ 4 hours.

5) At the time of submitting the permit application, the permittee may request approval from the Department for one of the following alternative surface casing procedures:

A) If the unconsolidated material is less than 25 feet thick, no surface casing is required but a cement basket shall be set 50 feet below the base of the fresh water and the production casing either cemented to surface from total depth, or cemented from the cement basket to surface together with the required cement on the bottom of the production casing as specified in subsection (b).

B) If the unconsolidated material is greater than 25 feet thick, surface casing is required to be set to the top of the bedrock, a cement basket shall be set 50 feet below the base of the fresh water and the production casing shall be either cemented to surface from total depth, or cemented from the cement basket to surface together with the required cement on the bottom of the production casing as specified in subsection (b) below.

C) For wells in which the total depth is less than 250 feet below the base of the fresh water, no surface casing or cement basket is required, but the production casing shall be cemented from total depth to surface.

b) Production Casing Requirements for Wells Drilled After May 13, 1994. the-Effective-Date-of-this-Section:

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Production casing shall be set and cemented in place by circulating cement behind the production casing from the setting depth of the casing to a minimum of two-hundred-fifty-~~4~~ 250 feet above the shallowest producing interval. The casing shall be set no higher than fifty-~~4~~ 50 feet above the top of the uppermost producing interval in an open hole completion.

c) Production Casing Requirements for Existing Wells

1) For all existing wells without production casing:

A) If surface casing was previously set, production casing shall be set and cemented a minimum of two-hundred-fifty-~~4~~ 250 feet in accordance with subsection (b) above.

B) If surface casing was not previously set, production casing shall be set and cemented to surface in accordance with subsection (a)(5) above.

2) Wells drilled prior to the May 13, 1994 effective-date-of--this-Section that contain drive pipe without cement behind the drive pipe will require no further cementing work.

d) Tubing and Packer in Flowing Wells

All wells flowing as a result of an enhanced oil recovery project shall be produced through tubing and packer. The packer shall be set within two-hundred-~~4~~ 200 feet of the top of the producing interval and within the cemented portion of the production casing. The permittee shall contact the District Office in which the well is located at least twenty-four-~~4~~ 24 hours prior to the initial setting or any resetting of the packer to enable an inspector to be present when the packer is set.

(Source: Amended at 21 Ill. Reg. 7104, effective January 1, 1997)

## Section 240.630 Operating Requirements

a) The well and wellhead shall be maintained in a leak-free condition.

b) All spills of produced water or oil occurring at the well-site due to a leaking wellhead shall be cleaned up in accordance with Subpart I Subparts-H-and-I.

c) Wells that have not produced for more than two-~~4~~ 2 years shall be temporarily abandoned or plugged in accordance with Subpart K.

d) Casinghead gas, produced in conjunction with oil production, that is not collected for use or sale, shall be flared unless the Department approves an exemption from this requirement. In determining whether to approve an exemption, the Department shall consider the quantity of casinghead gas produced, the topographical and climatological features at the well site, and the proximity of agricultural structures and crops, inhabited structures, public buildings, and public roads and railways.

e) If Hydrogen Sulfide gas (H<sub>2</sub>S) is present in excess of 20 ppm within five-~~4~~ 5 feet in any direction from the wellhead or the end of the

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- 1) For all wells drilled or deepened after the effective date of this Section, a Well Drilling Report shall be completed by the permittee on a form prescribed by the Department.
- 2) The Well Drilling Report shall be submitted to the State Geological Survey in Champaign, Illinois within 90 days after drilling ceases and shall contain:
  - A) the name and location of the well;
  - B) drilling information;
  - C) the geologic names and depths of the formations encountered in drilling the well;
  - D) the results of all drill stem tests; and
  - E) a copy of the drilling time or geolograph record if a geophysical log was not run unless the well was drilled with air rotary tools.

- 3) A Well Drilling Report is not required for well conversion not entailing deepening of the well.
- c) Geophysical Logs
  - A) copy of all open hole wire line or geophysical logs run on a well shall be submitted to the State Geological Survey within 90 days after drilling ceases.
- d) Drill Cuttings
  - 1) Notification and Collection of Drill Cuttings  
The Department shall notify the permittee when cuttings are required to be collected. Drill cuttings shall be collected for each run drilled in cable tool wells and each ten feet (10') of distance drilled in rotary or air drilled wells. The permittee shall obtain containers for the cuttings, and deliver the cuttings to the Illinois State Geological Survey in Champaign, Illinois. When cuttings are required, a Drilling Time log shall also be submitted.
  - 2) When Drill Cuttings Required  
The Department will require drill cuttings for a newly permitted well when drill cuttings have not previously been submitted for any well within one-half (1/2) mile of the newly permitted well. If the newly permitted well is drilled to a depth greater than any other well within one-half (1/2) mile for which drill cuttings were submitted, drill cuttings will be required only from the lowest depth previously submitted to the total depth of the newly permitted well.

(Source: Amended at 21 Ill. Reg. 7154, effective 1/1/97)

SUBPART G: WELL CONSTRUCTION, OPERATING AND REPORTING REQUIREMENTS FOR CLASS II UIC WELLS

Section 240.710 Surface and Production Casing Requirements for Newly Drilled Class II UIC Wells Drilled After the Effective Date of this Section

flare line, the Department shall specify measures to be taken by the permittee to protect against waste and injury to the public health and safety, which may include the erection of flare lines, the posting of warning signs, and the erection of fencing. The Department may also require the setting of a temporary mechanical or cement plug during any period of time in which the well is not producing or during any period of time necessary to effectuate safety measures. In specifying the measures to be taken by the permittee, the Department shall consider the quantities of H<sub>2</sub>S being emitted, the topographical and climatological features at the well site and the proximity of inhabited structures, public buildings, and public roads and railways.

(Source: Amended at 21 Ill. Reg. 7154, effective 1/1/97)

Section 240.640 Reporting Requirements

- a) Well Completion Reports
  - 1) Contents
    - The Well Completion Report shall be completed on a form prescribed by the Department and shall contain:
      - A) the name and location of the well;
      - B) information on the construction of the well;
      - C) information on the producing zones and the type of completion treatment performed on each zone; and
      - D) initial production rates.
  - 2) Newly Drilled Wells
    - A Well Completion Report shall be submitted to the Department within thirty (30) days after the conclusion of initial completion activities (i.e., production testing or date of first production) or within thirty (30) days after the expiration of the permit if the well was not drilled.
  - 3) Existing Wells
    - A Well Completion Report shall be completed and submitted to the Department for each workover or recompletion of any existing production well or conversion to a production well which results in a change of the original well construction or zone of production. The Well Completion Report shall be submitted within thirty (30) days after the completion of any such workover, or recompletion or conversion activity. A Well Completion Report is required within 30 days after the expiration of a conversion permit if the well was not converted.
  - 4) Non-productive Wells (Dry Holes)
    - A Well Completion Report shall be completed and submitted to the Department for each non-productive well or "dry hole". The Well Completion Report shall be submitted within thirty (30) days after attempted completion of the non-productive well.
- b) Well Drilling Report



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## a) Surface Casing

- 1) Steel surface casing shall be set to a depth of at least ~~one hundred--~~ 100 feet, or ~~fifty--~~ 50 feet below the base of the fresh water zone, whichever is deeper.
- 2) Surface casing or alternative surface casing shall be set under the supervision of a representative of the Department and the permittee shall give at least ~~twenty-four--~~ 24 hours notice to the District Office prior to setting the surface casing.
- 3) Surface casing shall be cemented in place by circulating cement behind the surface casing from the setting depth of the casing to the surface.
- 4) The cement shall be allowed to set in place until it has developed sufficient strength to allow drilling to resume, but no less than ~~four--~~ 4 hours.
- 5) At the time of submitting the permit application the permittee may request approval from the Department for one of the following alternative surface casing procedures:

A) If the unconsolidated material is less than 25 feet thick, no surface casing is required but a cement basket shall be set 50 feet below the base of the fresh water and the production casing either cemented to surface from total depth, or cemented from the cement basket to surface together with the required cement on the bottom of the production casing as specified in subsection (b).

B) If the unconsolidated materials is greater than 25 feet thick, surface casing is required to be set to the top of the bedrock, a cement basket shall be set 50 feet below the base of the fresh water and the production casing shall be either cemented to surface from total depth, or cemented from the cement basket to surface together with the required cement on the bottom of the production casing as specified in subsection (b).

C) For wells in which the total depth is less than 250 feet below the base of the fresh water, no surface casing or cement basket is required, but the production casing shall be cemented from total depth to surface.

## b) Production Casing

Production casing shall be set and cemented in place by circulating cement behind the production casing from the setting depth of the casing to a minimum of ~~two-hundred--fifty--~~ 250 feet above the shallowest permitted injection interval. The casing shall be set no higher than ~~fifty--~~ 50 feet above the top of the uppermost permitted injection interval in an open hole completion.

(Source: Amended at 21 Ill. Reg. 7134, effective June 1, 1991.)

Section 240.760 Establishment of Internal Mechanical Integrity for Class II

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## UIC Wells

- a) For purposes of this Section, establishment of Internal Mechanical Integrity includes proper placement of the packer in accordance with subsection (b) below and successful completion of a pressure test in accordance with subsection (f) below.
- b) Injection shall be through tubing and packer unless alternative construction methods are approved by the U.S. Environmental Protection Agency. The packer shall be placed no higher than ~~that two-hundred--~~ 200 feet above the uppermost perforations or the casing seat in an open hole completion, provided the packer is within the cemented portion of the production casing such that there is at least ~~fifty--~~ 50 feet of cement above the packer, and further provided the packer is no less than ~~one-hundred--~~ 100 feet below the base of the fresh water. No perforations shall be left open above the packer unless they are isolated by a dual packer or concentric packer system. If a dual packer is used, the uppermost packer must satisfy the placement requirements of this subsection.
- c) If the packer cannot be set in accordance with subsection (b) above due to existing well construction or an obstruction in the well, the permittee may request and the Department may specify an alternate packer setting depth provided the packer remains within the cemented portion of the production casing. In determining an alternate packer setting depth the Department shall take into consideration the current construction of the well, the depth of the fresh water and the nature of the obstruction.
- d) The permittee shall contact the District Office in which the well is located at least ~~twenty-four--~~ 24 hours prior to the initial setting or any resetting of the packer in a Class II UIC well to enable an inspector to be present when the packer is set. Setting of the packer must be reported on a form prescribed by the Department.
- e) An internal mechanical integrity test shall be performed:
  - 1) prior to initial injection into a newly permitted Class II UIC well;
  - 2) prior to initial injection into a Class II UIC well after a change to a new, permitted injection zone;
  - 3) prior to resuming injection into any Class II UIC well after any work over of the well involving the resetting or movement of a packer;
  - 4) prior to initial injection into a Class II UIC well after the well has been reactivated from temporary abandonment status; whenever the Department has reason to believe, based upon well records or field observation, and subject to the provisions of Sections 240.140, 240.150 and 240.170 of this Part, that the Class II UIC well may be leaking or improperly constructed; and
  - 6) at least once every ~~five--~~ 5 years measured from the date of the last successful test unless a temporary abandonment is approved in accordance with Section 240.1130.

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f) All Class II UIC wells not subjected to an internal mechanical integrity pressure test as of September 1, 1990 shall be tested by September 1, 1995, unless temporarily abandoned in accordance with Section 240.1130 within 5 years after of July 14, 1995 the effective date of this Section. During the first four--4 years, each permittee shall conduct an internal mechanical integrity test each year commencing September 1 on at least 20% of the permittee's total Class II UIC wells of record as of September 1 as reported to each permittee by the Department. During the fifth year each permittee shall conduct an internal mechanical integrity test on all remaining untested Class II UIC wells that are of record September 1, 1994 or are acquired during the year ending September 1, 1995. Class II UIC wells sold or acquired during the first 4 four years shall not affect the total number of wells from which the 20% testing requirement is derived for that year. Wells tested during the year in which they are transferred shall count toward the 20% testing requirement of the permittee who conducted the test. Class II UIC wells temporarily abandoned, converted to production wells or plugged in accordance with the provisions of Subpart K during any year shall count toward the 20% testing requirement.

## g) Pressure Test:

The following pressure test shall be performed on Class II UIC wells to establish the internal mechanical integrity of the tubing, casing and packer of the well. The permittee shall contact the District Office in which the well is located at least twenty-four--4 24 hours prior to conducting a pressure test to enable an inspector to be present when the test is done. The permittee shall report the test results on a form prescribed by the Department.

## 1) Pressure Test

The casing-tubing annulus above the packer shall be tested under the supervision of the Department at a minimum pressure differential between the tubing and the annulus of 50 PSIG for a period of 30 minutes. In addition, the casing-tubing annulus starting test pressure shall not be less than 300 PSIG and may vary no more than five--5 5 percent of the starting test pressure during the test. The well may be operating or shut in during the test.

## 2) Monitoring Test

For those wells which are structurally unable to withstand the pressure test specified in subsection (d)(1) above because the packer would unseat, but not because the well is improperly constructed, the permittee may make application to perform a monitoring test in lieu of the pressure test on forms prescribed by the Department. An approved monitoring test will consist of pressuring the annulus to a specified pressure no less than 50 PSIG and monitoring the positive annular pressure over a specified period of time. In determining whether to approve a monitoring test, and in establishing the test parameters (i.e.,

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positive annulus pressure, tubing injection pressure, injection rate, monitoring method and length and frequency of monitoring), the Department shall consider well construction including:

A) the volume of the casing-tubing annulus;

B) depth of packer;

C) pressure below the packer; and

D) type of tubing and packer.

h) Any Class II UIC well which fails an internal mechanical integrity test, or on which an internal mechanical integrity test has not been performed when required by subsection (d) and (e) above, shall be shut in until the well is plugged or until remedial work is completed and an internal mechanical integrity test is successfully completed. If the necessary work has not been completed and an internal mechanical integrity test successfully completed within ninety--9 90 days (or within any greater length of time established by the Department due to weather conditions), the well shall be temporarily abandoned in accordance with Section 240.1130(d) of this Part.

(Source: Amended at 21 Ill. Reg. 7194, effective JUN 03 1997)

## Section 240.780 Reporting Requirements for Class II UIC Wells

## a) Well Completion Reports

## 1) Contents

The Well Completion Report shall be completed on a form prescribed by the Department and shall contain:

A) the name and location of the well;

B) information on the construction of the well;

C) information on the injection zones and the type of completion treatment performed on each zone; and

D) injection rates and pressures.

## 2) Newly drilled or converted wells

A Well Completion Report shall be submitted to the Department within thirty--3 30 days after the conclusion of initial completion activities (i.e., setting of tubing and packer) or within thirty--3 30 days after the expiration of the permit if the well was not drilled or converted.

## 3) Existing wells

A Well Completion Report shall be completed and submitted to the Department for each recompletion of any existing injection well. Recompletion includes injection into a zone not previously used for injection in the well. The Well Completion Report shall be submitted within thirty--3 30 days after the completion of any such workover or recompletion activity.

## b) Well Drilling Report

1) For all wells drilled or deepened after the effective date of this Section, a Well Drilling Report shall be completed by the

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permittee on a form prescribed by the Department.

- 2) The Well Drilling Report shall be submitted to the State Geological Survey within 90 days after drilling ceases and shall contain:

- A) the name and location of the well;
- B) drilling information;
- C) the geologic names and depths of the formations encountered in drilling the well;
- D) the results of all drill stem tests; and
- E) a copy of the drilling time or geolograph record if a geophysical log was not run, unless the well is drilled with air rotary tools.

- 3) Well Drilling Reports are not required for well conversions not entailing a deepening of the well.

## c) Geophysical Logs

A copy of all open hole wire line or geophysical logs run on the well shall be submitted to the State Geological Survey within 90 days after drilling ceases, or in the case of a conversion of an existing well only if the well is deepened, after the completion of conversion activities.

## d) Drill Cuttings

- 1) Notification and Collection of Drill Cuttings

The Department shall notify the permittee when cuttings are required to be collected. Drill cuttings shall be collected for each run drilled in cable tool wells and each ten-foot distance drilled in rotary or air drilled wells. The permittee shall obtain containers for the cuttings, and deliver the cuttings to the Illinois State Geological Survey in Champaign, Illinois. When cuttings are required, a Drilling Time log shall also be submitted.

- 2) When Drill Cuttings Required

Drill cuttings shall be submitted for each well when drill cuttings have not previously been submitted from any well within one-half to 1/2 mile of the newly permitted well. If the newly permitted well is drilled to a depth greater than any other well within one-half to 1/2 mile, drill cuttings shall be requested from the approximate previously submitted depth to the total depth in the newly permitted well.

## e) Annual Well Status Report

The permittee of each Class II UIC well shall file an Annual Well Status Report on forms prescribed by the Department. The report shall be filed by May 1 of each year for the preceding calendar year for all wells which have not received Department approval for temporary abandonment or been plugged by the end of the reporting year, and shall include:

- 1) the name and location of the well;
- 2) the names of all injection intervals;
- 3) the setting depth of the packer; and

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- 4) the average monthly injection rates and pressures.

- f) Annual Enhanced Oil Recovery Project Report  
The operator of an enhanced oil recovery project shall complete an annual project report on forms prescribed by the Department and submit the report to the State Geological Survey by May 1 of each year.

(Source: Amended at 21 Ill. Reg. 8164, effective June 9, 1997)

## SUBPART H: LEASE OPERATING REQUIREMENTS

## Section 240.860 Pits

- a) "Pit", as used in this Section, is a synthetic lined or unlined earthen surface impoundment, whether a man-made excavation or a diked area which was or currently is used for temporary storage of liquid oil field waste or produced water prior to disposal.
- b) Construction of pits other than those specified in Subparts E and K of this Part is prohibited.

- c) All pits in existence on May 13, 1994 shall be closed, in accordance with subsection (e) below, by July 1, 1995 as follows, unless covered by subsection (d) below, or exempted for continued use in accordance with Section 240.861 of this Part: or for an alternative use in accordance with Section 240.862.

- 1) All pits without synthetic liners shall be restored in accordance with subsection (d) below.
  - 2) Unpermitted synthetic lined pits shall be restored in accordance with subsection (d) below.
  - 3) Pits with leaking or torn liners shall be restored in accordance with subsection (d) below.
  - 4) Permitted synthetic lined pits that are not torn or leaking shall be restored in accordance with subsection (d) below within five years from the Department's pit permit date.
- d) Synthetic lined pits, permitted after May 12, 1989 and before May 13, 1994, more than five years ago shall be restored in accordance with subsection (e) within 5 years after the permit was issued to it.

- e) Pits shall be restored as follows:
- 1) All liquid oilfield waste shall be removed and disposed of in a Class II UIC well.
  - 2) Crude oil bottom sediments shall be disposed of in accordance with Section 240.940(a) and (b).
  - 3) For pits required to be closed by July 1, 1995 and not exempted in accordance with Section 240.861, the pit residue and liner, if any, shall either be:

- A) removed from the site and disposed of at an Illinois Environmental Protection Agency permitted non-hazardous special waste landfill, provided that pit residue or liner containing NORM with radioactivity levels exceeding



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background may be required to be disposed of at a waste facility permitted by the Illinois Department of Nuclear Safety; or

- B) consolidated from the sides to the bottom of the pit and covered in place with a clay or synthetic liner sufficient to impede the infiltration of surface water and placed at least five-4 5/8 feet below the ground surface. The pit shall be backfilled and the pit residue covered with 5' of soil having a radioactivity level at or below background level with the upper most 18" consisting of clean soil not contaminated by oilfield brine or crude oil. The backfilled area shall be graded to promote runoff with no depressions that would accumulate or pond water on the surface. The stability of the backfilled pit shall be compatible with the adjacent land use. The surface area over the backfilled pit area shall be stabilized to prevent erosion.

- C) The Department shall prepare an inventory identifying, by county, all closed and unclosed liquid oilfield waste or produced water storage pits. The Department shall file such notice in the county clerk's office in the county in which such pits are located. The notice shall specify the location of the pit, generally identify the nature of the materials buried and, if known, specify the radioactivity level of the material buried. If the radioactivity is not known, the notice shall specify that the buried oil and gas waste may contain Naturally Occurring Radioactive Material (NORM).

(Source: Amended at 21 Ill. Reg. 8164, effective 10/1/93)

## Section 240.861 Existing Pit Exemption For Continued Production Use

- a) Any pit in existence on May 13, 1994, does not have to be closed in accordance with Section 240.860(c) of this Part if presently constructed or will be reconstructed by July 1, 1995 as follows:
- 1) The pit must be lined with a synthetic flexible liner that is compatible with the produced fluid and has a coefficient of permeability of no greater than  $1 \times 10^{-7}$  cm/sec and shall be at least 30 mils in thickness. Adjoining sections of liners must be sealed together in accordance with the manufacturer's specifications; and
  - 2) The pit must be underlined by a gravel sub-base, at least 4" in thickness, in which slotted or perforated PVC pipe has been placed in order to provide for under pit drainage. This drainage system must be constructed to allow monitoring and sampling of fluid drainage from underneath the pit.
- b) All pits shall be permitted prior to reconstruction on a form

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prescribed by the Department which shall include the following:

- 1) A map drawn to scale showing the location of the pit relative to the lease boundaries, potable water wells and surface drainage located within 1/4 mile of the existing pit.
  - 2) An engineering diagram of the construction specifications of the pit.
  - 3) Soil types in the area of the pit.
  - 4) Chemical analysis of produced water to be temporarily stored in the pit, showing TDS and chlorides.
  - 5) A description of the method for disposal of the produced water or liquid oilfield waste temporarily stored in the pit.
- c) All existing pits shall be in compliance with the following:
- 1) Surface water drainage shall be diverted away from the pit.
  - 2) Pit contents shall not be discharged onto the surrounding land surface or into a stream or other body of water unless a permit has been obtained from the Illinois Environmental Protection Agency ("IEPA").
  - 3) The pit permit number and the name of the permittee must be posted at the pit location in a legible and visible manner.
  - 4) All pits shall be covered with bird netting or other systems designed to keep birds and flying mammals from landing in the pit.
- d) All existing pits covered by this Section shall sample, quarterly, the fluid drainage from beneath the pit. The sample shall be analyzed for chlorides by an "independent testing" facility. The results of the analysis shall be maintained at the facility offices, for review upon request, by the Department.
- e) If the fluid analysis indicates a leak is present, the Department shall be notified within five-4 5/8 days and the contents of the pit shall be emptied and properly disposed of drained and the pit liner repaired.
- f) All existing pits covered by this Section shall be subject to inspection by a Department well inspector. If requested at the time of the inspection, the pit shall be emptied in order to examine the integrity of the structure. The Department may order any remedial work it deems necessary to ensure compliance with Department regulations.
- g) Pit Abandonment and Restoration
- 1) Prior to liner removal and burial of the pit:
    - A) All liquid oilfield waste shall be removed and disposed of in a Class II UIC well.
    - B) Crude oil bottom sediments shall be disposed of in accordance with Section 240.940(a) and (b) of this Part.
    - C) Pit residue shall be removed from the site and disposed of at an IEPA permitted non-hazardous special waste landfill provided that pit residue containing NORM with radioactivity levels exceeding background may be required to be disposed of at a waste facility permitted by the Illinois Department

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- 2) The liner must be completely removed from the site and disposed of at a nonhazardous special waste facility permitted by the IEPA. The surface area shall be leveled and pit filled in such manner as to prevent the ponding of water and erosion and allow the site to be returned to original use with no subsidence or leakage of fluids, and where applicable, with sufficient compaction to support farm machinery.

(Source: Amended at 21 Ill. Reg. 7154, effective JUN 14 1993)

**Section 240.862 Existing Pit Exemption For Alternative Use**

- a) Any pit in existence on May 13, 1994 may not have to be closed in accordance with Section 240.860(c) of this Part if:

- 1) the pit is no longer used for temporary storage of produced water or other liquid oilfield waste;
- 2) the water quality in the pit is less than 5000 TDS with no visible sheen of oil; and
- 3) a written, notarized authorization from the current surface owner has been received by the Department requesting the pit not be closed and demonstrating an acceptable alternative use for the pit.

- b) In determining not to require the pit be closed, the Department shall:
- 1) review the current location of the pit relative to any ongoing production operations in the area; and
  - 2) review the proposed alternative use relative to public health and safety considerations and potential use for agricultural, recreational or wildlife habitat purposes.

- c) If the Department determines, based on a review of the information submitted by the permittee and surface owner, the pit is not exempted, the pit shall be closed, within 6 months, by the permittee, in accordance with Section 240.860(d).

(Source: Added at 21 Ill. Reg. 7164, effective JUN 14 1993)

**Section 240.890 Crude Oil Spill Cleanu-Up Requirements**

- a) All crude oil spills, which occur after November 8, 1993, regardless of amount, from wells, flowlines, tanks, concrete storage structures, pits or containment dikes, shall as soon as practicable be contained using earthen dikes, booms and other containment measures to minimize the amount of area affected by the spill.

- b) Impounded free oil shall be picked up and put in lease storage tanks or removed from the site.

- c) Remaining oil on the land surface shall be removed using absorbent

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material, which shall be disposed in accordance with Section 240.891 of this Part.

- d) Contaminated soil shall be remediated in accordance with Section 240.891(a) or if required to be removed in accordance with subsection (4) below shall be disposed of in accordance with Section 240.891(b). In determining whether the Department will require additional remedial cleanup action to be taken by the permittee, which may include flushing of the area with fresh water, the addition of organic material (e.g., peat moss, straw), additional chemical treatment and diking of the soil, the following factors shall be taken into consideration based on information provided by the permittee upon the Department's request:

- e) If a spill leaves the immediate lease area and enters a public road ditch, visible oil-contaminated soil shall be removed from the roadside ditch, spread over the area affected by the spill and incorporated in accordance with Section 240.891(c) of this Part.

- f) If a spill enters surface waters, the spill shall be contained with booms and/or underflow dams and removed as expeditiously as possible. If it is determined that burning the oil-affected area will prevent further contamination of the surface waters, an emergency burn permit shall be sought from the IEPA, in accordance with Section 240.891 of this Part.

- g) In determining whether the Department will require additional remedial cleanup action to be taken by the permittee, which may include flushing of the area (e.g., stream banks, etc.) with fresh water, the addition of organic material (e.g., peat moss, straw), chemical treatment, additional diking of the soil or soil and absorbent material removal if the soil and/or absorbent material within the spill area cannot meet the TPH standard specified in Section 240.891(a)(1)(C), the following factors shall be taken into consideration based on information provided by the permittee upon the Department's request:

- 1) the aerial extent of the spill;
- 2) the proximity of surface waters, fresh waters or surface drainage ways;
- 3) the type of soil and current land use; and
- 4) the total petroleum hydrocarbon (TPH) content in the spill area.

(Source: Amended at 21 Ill. Reg. 7134, effective JUN 14 1993)

**Section 240.891 Crude Oil Spill Waste Disposal and Remediation**

- a) On Site Remediation Disposal of Contaminated Soil

- 1) The soil affected by a spill shall be at a minimum:

- A) fertilized with 5 pounds of 12-12-12 fertilizer or an amount of other fertilizer sufficient to treat the soil with 0.25 lbs of nitrogen per 100 square feet of affected area;

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- B) limed with at least 50 lbs of agricultural grade lime per 100 square feet of affected area in order to maintain a pH of between 6-8; if the pH of the soil/oil mixture is less than 6, additional lime shall be incorporated to increase pH above 6;
- C) tilled to a depth of at least ~~four--~~ 4 inches but no greater than ~~twelve--~~ 12 inches to create a soil and crude oil mixture which is less than 5% total petroleum hydrocarbon (TPH) as determined using Environmental Protection Agency Method 418.1;
- D) watered to maintain soil moisture sufficient to promote plant growth (if extremely dry soil conditions exist); and
- E) stabilized to minimize erosion and run-off of stormwater.
- 2) If the soil in the affected area is frozen or previously saturated due to rain or snow melt, prohibiting compliance with subsections (a)(1)(A) through (D) above, the permittee shall stabilize the area to prevent any surface run-off from leaving the affected area until conditions permit compliance with subsections (a)(1)(A) through (D) above.
- 3) The soil affected by the spill may be required to be tested by the Department one year later using Environmental Protection Agency Method 418.1. The soil and crude oil mixture must be less than 1% total petroleum hydrocarbon (TPH).
- B) Contaminated soils removed from the site for off-site disposal shall be disposed of at an Environmental Protection Agency permitted special waste landfill, waste treatment or disposal facility.
- c) Contaminated Absorbent Materials
- 1) Off-site disposal
- All non-organic/non-biodegradable absorbent materials and all organic/biodegradable materials in excess of ~~five-hundred--~~ 500 cubic feet shall be disposed of at an Environmental Protection Agency permitted non-hazardous special waste landfill, waste treatment or disposal facility. Organic/biodegradable materials amounting to less than ~~five-hundred--~~ 500 cubic feet may be disposed of at a permitted non-hazardous special waste landfill or disposed of in accordance with subsection (c)(2)(B) below.
- 2) On-site disposal
- A) On-site disposal of non-organic/non-biodegradable absorbent materials is prohibited. These materials must be removed in accordance with subsection (b)(1) above.
- B) On-site disposal of less than ~~five-hundred--~~ 500 cubic feet of organic/biodegradable absorbent materials through landspreading over the area affected by the spill is permitted if it involves only materials generated at the site.
- C) Landspreading of absorbent materials shall be subject to the provisions of Section 240.890(g) and subsection (a) of this Section, comply with subsection (a) above.

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- d) Emergency Burning
- 1) Open burning of spilled crude oil and/or absorbent material is permitted when imminent weather conditions threaten to further contaminate surface waters or immediate collection for disposal is impractical.
- 2) Burning shall only be permitted when conditions will not cause the burn to affect nearby residences or the visibility on nearby roads.
- 3) Approval must be received from the Illinois Environmental Protection Agency prior to the emergency burn, and appropriately designated Illinois Department of Natural Resources Mines--and Minerals personnel must be on the scene throughout the burn.
- 4) The local fire department shall be notified, if the burn is near a town or city.
- 5) A report must be filed with the Illinois Environmental Protection Agency within ~~ten--~~ 10 days after the burn, indicating:
- A) the place and time of the burn;
- B) the quantity burned;
- C) meteorological conditions; and
- D) the reason the emergency burn was necessary.
- (Source: Amended at 21 Ill. Reg. 7104E, effective JUN 04 1997)

## Section 240.895 Produced Water Spill Clean-Up Requirements

- a) All spills of produced water, which occur after November 8, 1993, from wells, flowlines, pits, concrete storage structures, tanks or containment dikes, shall as soon as practicable be contained using earthen dikes and other containment measures to minimize the amount of area affected by the spill.
- b) All impounded produced water shall be picked up and removed from the site for disposal into a Class II UIC well. The area shall then be immediately flushed with fresh water in an amount equal to the spill.
- c) In determining whether the Department will require additional remedial cleanup action to be taken by the permittee, which may include flushing of the area with fresh water, the addition of organic material (e.g., peat moss, straw), additional chemical treatment and diskings of the soil or soil removal, the following factors shall be taken into consideration based on information provided by the permittee upon the Department's request:
- 1) the quantity and areal extent of the spill;
- 2) the nature content of the soil;
- 3) the flow capacity of affected surface waters waterways;
- 4) the public safety; and
- 5) the proximity of domestic--or--livestock fresh waters water supplies, surface waters, and surface drainage ways.



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(Source: Amended at 21 Ill. Reg. 7164, effective JUN 03 1997)

SUBPART I: LIQUID OILFIELD OIL-FIELD WASTE  
HANDLING AND DISPOSAL

## Section 240.900 Definitions

For the purpose of this Subpart the term:

"Liquid Oilfield Waste Transportation System" means all trucks and other motor vehicles used to gather, handle or transport liquid oilfield waste from the point of any surface on-site collection to any subsequent off-site storage, utilization or disposal. (Section 8c of the Act)

"System Facility" means any location other than the point of surface on-site collection or off-site disposal of liquid oilfield waste, where liquid oilfield waste is temporarily handled or stored prior to disposal.

"Vehicle" means a tank used to transport or carry liquid oil field waste whether motorized or not motorized.

(Source: Added at 21 Ill. Reg. 7164, effective JUN 03 1997)

Section 240.906 Application for a Liquid Oilfield Waste Transportation Vehicle Permit

a) "Vehicle" means--a--tank--used--to--transport--or--carry--liquid--oilfield waste--whether--motorized--or--not--motorized--

a) Each liquid oilfield waste transportation vehicle (tank) requires a permit from the Department and shall not be operated until such permit is obtained.

b) Application for a vehicle permit under this Section shall be made on forms prescribed by the Department. The application shall be executed under penalties of perjury, and accompanied by the non-refundable vehicle permit fee of \$100.00 for each vehicle (tank).

c) If the application does not contain all of the required information or documents, the Department shall notify the applicant in writing. The notification shall specify the additional information or documents necessary to process the application, and shall advise the applicant that the application will be deemed denied unless the information or documents are submitted within sixty (60) days following the date of notification.

d) The application shall include:

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1) The name and system permit number of the liquid oilfield waste transportation system under which this vehicle (tank) will be operated.

2) A description of the construction of the tank, valve, and associated piping (including materials each is made of), capacity of tank and manufacturers serial number or other vehicle (tank) identifying number.

ef) The application for a vehicle (tank) permit shall be signed by the holder of the liquid oilfield waste transportation system permit under which the vehicle (tank) will operate.

(Source: Amended at 21 Ill. Reg. 7164, effective JUN 03 1997)

Section 240.926 Liquid Oilfield Waste Transportation System and Vehicle Operating Requirements

a) All liquid oilfield waste hauling vehicles (tanks) and associated piping and valves must be kept in leak free condition. Any person who gathers, handles, transports, or disposes of liquid oilfield waste without a liquid oilfield waste transportation permit or utilizes the services of an unpermitted person shall upon conviction thereof by a court of competent jurisdiction be fined not less than \$2,000 for a violation and costs of prosecution, and in default of payment of fine and costs, imprisoned for not less than 10 days nor more than 30 days. When the violation is of a continuing nature, each day upon which a violation occurs is a separate offense. (Section 8c of the Act)

b) Liquid Oilfield Waste Haulers shall only dispose of liquid oilfield waste in accordance with Subparts E and I. Liquid oilfield waste shall not be released on the ground surface or into any fresh water or water drainage-way.

c) All liquid oilfield waste temporarily stored at a system facility shall be contained in tanks in accordance with Section 240.810 of this Part or concrete storage structures in accordance with Section 240.850 of this Part.

d) Liquid oilfield waste shall not be commingled or blended with non-exempt waste under Subtitle C of the federal Resource Conservation and Recovery Act of 1976.

e) No person shall engage, employ or contract with any other person except a Liquid Oilfield Waste Hauler to transport liquid oilfield waste.

f) The Department may revoke a Liquid Oilfield Waste Transportation or Vehicle Permit if:

- 1) The permittee fails to meet permit conditions;
- 2) the applicant has falsified or otherwise misstated any information on or relative to the permit application;
- 3) the applicant has failed to abate a violation of the Act specified in a final administrative decision of the Department;

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are generated from the well during plugging activities.

"Producing Lease or Unit" means a lease or waterflood/enhanced oil recovery unit which has produced and sold oil within the preceding 12 month period.

"Uncased Well" means a well in which production casing has not been set.

(Source: Amended at 21 Ill. Reg. 7134, effective 1/1/77)

Section 240.1130 Plugging or Temporary Abandonment of Inactive Wells and Certain Class II UIC Wells

- a) Any inactive well which has not been in operation for 24 consecutive months shall be deemed abandoned, in accordance with Section 240.1600(c) of this Part, and plugged in accordance with Section 240.1140 of this Part unless the well has been temporarily abandoned in accordance with subsection (c) of this Part.
- b) Any Class II UIC well(s) without tubing and packer shall be plugged in accordance with Section 240.1140 of this Part unless the well has been temporarily abandoned in accordance with subsection (c) of this Part.
- c) The permittee may request temporary abandonment status by making written application on forms provided by the Department. The Department shall place the well on temporary abandonment status and issue a Future Use Permit, if the well meets the following conditions (which shall be continuing requirements):
  - 1) The well shall have proper bond in effect in accordance with the Act, the permittee must not be delinquent in payment of any annual well fee assessment.
  - 2) The well shall have an intact leak free wellhead or be capped with a valve, and configured to monitor casing or annual pressure.
  - 3) If the well is an injection well, all injection lines shall be disconnected at the well.
  - 4) If the well is a permitted gas well and the well has a sustained gas pressure at the surface, the requirements of subsection (c)(6) and (7) below do not apply.
  - 5) The wellhead shall be above ground level.
  - 6) The fluid level is no higher than one-hundred (100) feet below the base of the fresh water as evidenced by an annual fluid level test conducted by the permittee after notice to and under the supervision of the Department, using acoustical or wire line measuring methods. If the Department authorizes the permittee to conduct an annual fluid level test without the presence of a well inspector, the permittee shall report the annual fluid level test on a form prescribed by the Department. The fluid level test

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- 4) an officer, director, partner, or person with an interest in the applicant exceeding 5% failed to abate a violation of the Act specified in a final administrative decision of the Department; or
- 5) the applicant is an officer, director, partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Act specified in a final administrative decision of the Department. [Section 8a of the Act]

g) Failure to comply with provisions of the Act may result in forfeiture of the Liquid Oilfield Waste Transportation bond in accordance with Section 240.1530(b) through (g) of this Part and may be fined not less than \$2,000 for a violation and costs of prosecution, and in default of payment of fine and costs, imprisoned for not less than 10 days nor more than 30 days. (Section 8c of the Act)

(Source: Added at 21 Ill. Reg. 7134, effective 1/1/77)

SUBPART K: PLUGGING OF WELLS

Section 240.1110 Definitions

For the purpose of this Subpart, the term:

- "Cased Well" means a well in which production casing has been set.
- "Cement" means Class A neat cement with a minimum weight of 14.5 ~~fifteen--and--six--tenths--(15.6)~~ pounds per gallon, unless the cement contains additives which improve the ability of the cement to provide necessary protection and which maintains a minimum compressive strength of 500 PSI after 72 hours.
- "Circulation Method" means placement of cement used in plugging a well by circulating cement through a pipe set at a specified depth in the well.
- "Dump Bailer Method" means placement of cement used in plugging a well by using a dump bailer on a wire line.
- "Inactive Well" means a well that has ceased operation for a period of up to ~~twenty-four~~ 24 consecutive months.
- "Mud" means a drilling mud with a minimum Marsh Funnel viscosity of ~~forty-five~~ 45 seconds. Mud may contain water (fresh or brine), Bentonite, Attapulgite or other additives if they do not reduce the viscosity below ~~forty-five~~ 45 seconds.
- "Plugging Fluid Waste" means plugging fluids, including cement, that



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shall be conducted annually during the period of temporary abandonment unless the permittee elects to satisfy the requirements of subsection (C)(7)(B) or (C) below.

- 7) If the fluid level, as tested, is higher than one hundred (100) feet below the base of the fresh water, the permittee, under the supervision of the Department, shall:

- A) set a cast iron plug within 200 feet above the perforated or open hole interval in the cemented portion of the casing, but no less than 100 feet below the base of the fresh water, remove any fluid to a level at least 100 feet below the base of the fresh water zone, and monitor the fluid level annually in accordance with subsection (C)(6) above; or
- B) set a cast iron plug within 200 feet above the perforated or open hole interval in the cemented portion of the casing, but no less than 100 feet below the base of the fresh water, and pressure test the casing by maintaining a pressure of 300 PSIG (which may vary no more than 5%) for a period of 30 minutes at least once every five (5) years during any period of temporary abandonment; or
- C) install tubing and set a packer in accordance with the requirements of Section 240.740, and conduct and pass an internal mechanical integrity test in accordance with Section 240.760 of this Part.

- d) If a Future Use temporary-abandonment request is denied, the permittee shall, within ninety (90) days, plug the well or secure a Future Use Permit temporary-abandonment-status.

- e) Future Use status shall not be extended beyond the initial 5 year period for a Class II UIC well. Temporary-abandonment-status-shall-be granted-for-a-five-(5)-year-period---After-the-expiration-of-the-five-(5)-year-period7-temporary-abandonment-status-shall-be-granted-on-an annual-basis---Temporary-abandonment-status-shall-not-be-extended-or renewed-for-a-Class-II-UIC-well-unless-the-well-is-tested-in accordance-with-Section-240.760-of-this-Part-

- f) Future Use status shall be granted for an initial 5 year period. After the expiration of the initial 5 year period, Future Use status for production wells may be extended on an annual basis in accordance with Section 240.1131. At the end of the initial 5 year period the well shall be plugged in accordance with Subpart K of this Part, or successfully tested in accordance with subsection (C)(7)(B) above or Section 240.760 of this Part, or converted to a production well by removing the tubing and packer and permitting the well in accordance with subsection (b) above. If the Class II well is part of a gas storage field, the well may be converted to an observation well and permitted in accordance with Subpart R of this Part. A-temporarily abandoned-well-shall-not-be-operated-until-it-is-reactivated-by notifying-the-Department-on-a-form-prescribed-by-the-Department---in addition7-if-the-well-is-an-injection-or-disposal-well7-the-well-shall not-be-reactivated-until-tubing-and-packer---is-set--and--an--internal

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~~mechanical-integrity test-is-passed-in-accordance-with-Section-240.760 of-this-part-~~

- g) Future Use status shall not be terminated until the well is active for a period of one year and a Future Use termination request is approved by the Department. Future Use termination requests shall be on a form prescribed by the Department and shall be accompanied by evidence of the sale of oil or natural gas during the preceding 12 month period.
- h) Injection or disposal wells shall not be reactivated until tubing and packer is set and an internal mechanical integrity test is passed in accordance with Section 240.760 of this Part.

(Source: Amended at 21 Ill. Reg. 7134, effective June 9, 1997)

## Section 240.1131 Extension of Future Use Status

- a) The permittee of wells on Future Use status, which are located in a producing unit or on a producing lease, will be granted, upon request, an annual extension of Future Use status provided the well remains in compliance with Section 240.1130(C) and the lease or unit remains in production.

- b) Wells located in a non-producing unit or on a non-producing lease shall require submission by the permittee and review by the Department of the following information prior to extension of Future Use status:
- 1) Cumulative production from the well;
  - 2) Production records for the past 5 years;
  - 3) Estimated remaining reserves with supporting documentation and a description of the reservoir geology; and
  - 4) Future plans for the well.

- c) Wells not approved for extension of Future Use status shall be plugged within 6 months from the date of denial unless the permittee requests a hearing in accordance with subsection (d) below.

- d) A permittee may request a hearing to challenge a Future Use extension denial if such hearing is requested in writing within 30 days after the date of the denial of the Future Use extension notice. All requests for hearing must be accompanied by documents evidencing basis for objection. If no hearing is requested in this time period, the Future Use extension denial shall be a final administrative decision of the Department and the well shall be plugged in accordance with subsection (c) above. If a hearing is requested by the permittee:
- 1) A pre-hearing conference shall be held within 15 days after the receipt of the request for hearing.
    - A) A pre-hearing conference shall be scheduled in order to:
      - i) Simplify the factual and legal issues presented by the hearing request;
      - ii) Receive stipulations and admissions of fact and of the contents and authenticity of documents;
      - iii) Exchange lists of witnesses the parties intend to have



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testify and copies of all documents the parties intend to introduce into evidence at the hearing;

- iv) Set a hearing date; and
- v) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.

B) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all parties.

- 2) All hearings under Subpart N of this Part shall be conducted by a non-Departmental hearing officer and shall be held in the Department's offices located in Springfield, Illinois.

e) At the Future Use denial hearing, the Department shall present evidence in support of its determination under subsection (b) above. The permittee may present evidence contesting the Department's determination under subsection (b) above. The hearing officer may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance of witnesses or production of materials, compel discovery, and take evidence.

f) Within 30 days after the close of the record for the Future Use denial hearing, the hearing officer shall issue a final administrative decision, pursuant to Section 10 of the Act.

g) The person's or permittee's failure to request a hearing in accordance with subsection (d) above shall constitute a waiver of all legal rights to contest the Future Use denial decision. Within 30 days after the close of the hearing record or expiration of the time to request a hearing, the hearing officer shall issue a final administrative decision, pursuant to Section 10 of the Act.

(Source: Added at 21 Ill. Reg. 7104.37 effective 11/19/84)

## SUBPART N: TRANSFER OF PERMIT

## Section 240.1410 Applicability

a) The provisions of this Subpart apply to all assignments, transfers (whether voluntary or involuntary) and sales of the interest of the individual or entity required to hold and to whom the permit is issued (permittee) (permittee), including:

- 1) a change of ownership of the right to drill and/or produce said wells well(s), along with the full rights and responsibilities for operating the wells well(s) in accordance with the Act and the obligation to ultimately plug said wells well(s) through assignment, voluntary release, corporate or other business takeover, buyout, merger or similar transaction, involuntary termination of lease rights by court order, new base lease, sale, gift, devise or other transfer; or
- 2) a change in the designation of the operator or manager under an

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operating or other similar agreement in which the owner of the right to drill and/or produce said wells well(s), along with the full rights and responsibilities for operating the wells well(s) in accordance with the Act and the obligation to ultimately plug said wells well(s) assigns that right; or

- 3) pursuant to the action of the owners of separate interests who designate an owner to be Permittee; or
- 4) the appointment, by a court of competent jurisdiction, of a trustee or a receiver to exercise custody and control over the well or wells, including the right to drill and/or produce said wells along with the full right and responsibilities for operating the wells.

b) The provisions of this Subpart shall not apply to the assignment, transfer or sale of royalty, overriding royalty or fractional working interests not affecting the rights or responsibilities of the permittee.

c) The provision of this Subpart shall also apply to administrative record correction transfers initiated by the Department in which the Department transfers the permit to a well to the person who is required to be the permittee for that well under the Act.

(Source: Amended at 21 Ill. Reg. 7104.37 effective 11/19/84)

## Section 240.1450 Authority of Persons Signing Notification

a) The notification shall be signed by the current permittee and the new permittee, or by individuals authorized to sign for them.

b) If the current permittee or new permittee is an individual, the notification shall be signed by the individual. If the current permittee or new permittee is a partnership, the notification shall be signed by a general partner. If the current permittee or new permittee is a corporation, the notification shall be signed by an officer of the corporation.

c) In lieu of the signatures of the current and new permittees or such authorized persons, the notification may be signed by a person having a power of attorney to sign for a permittee or authorized person, provided a certified copy of the power of attorney is on file with the Department or accompanies the notification.

d) The new permittee may also submit a court order or other documents evidencing his ownership of the lease or unit to be transferred in the event that the current permittee cannot be located or refuses to sign the notification of transfer form.

e) The current permittee may submit documentation the assignment or other conveyance--signed--by--both--parties evidencing his transfer of the ownership of the lease or unit in the event the new permittee refuses to sign the notification of transfer form.

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(Source: Amended at 21 Ill. Reg. 7134, effective 11/13/90)

## Section 240.1460 Other Conditions for and Effect of Transfer

- a) No permit shall be transferred to a new permittee where:
- 1) the applicant has falsified or otherwise misstated any information on or relative to the permit application; who is delinquent in the payment of fees assessed under Section 19-7 of the Act;
  - 2) the applicant has failed to abate a violation of the Act specified in a final administrative decision of the Department;
  - 3) an officer, director, partner, or person with an interest in the applicant exceeding 5% failed to abate a violation of the Act specified in a final administrative decision of the Department;  
or
  - 4) the applicant is an officer, director, partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Act specified in a final administrative decision of the Department (Section 8a of the Act)
  - 5) the applicant has been obligated and remain outstanding from the plugging and Restoration Fund to plug wells, under Subpart P of this Part, for which the new permittee was a previous permittee or the new permittee was an officer, director, partner or person with an interest exceeding 5% in a permittee for which funds were obligated; or on account of whom any amounts have been obligated from the plugging and Restoration Fund--that have not been reimbursed; or
  - 6) the new permittee is delinquent in the payment of Annual Well Fees or is an officer, director, partner or person with an interest exceeding 5% in another permittee who is delinquent in payment of Annual Well Fees. against whom the Department has issued a final administrative decision that has not been abated or satisfied;
  - b) When the requirements of this Subpart have been satisfied, and subject to subsections (d) and (e) below, the Department shall render permit transfer decisions based upon the manner in which the new permittee came into possession of the wells sought to be transferred. Specifically:
    - 1) a new permittee who is the mineral owner:
      - a) if the new permittee owns the mineral rights to the tract of land on which production or injection wells subject to a prior lease are located and came into possession of the right to operate such wells by virtue of a voluntary release or involuntary termination of lease rights by court order, this new permittee shall become responsible for all regulatory requirements relative to:
      - A) each production well identified in the new permittee's permit transfer application;

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- B) all wells in existence within the prior lease if the new permittee seeks to operate any of the injection wells located within this leasehold, convert any production well to an injection well or drill a new injection well; and
- C) all pits, concrete storage structures, tank batteries and other surface production facilities in existence within the lease boundaries.
- 2) the new permittee is a new base lessee:
  - a) if the new permittee came into possession of the right to operate wells by virtue of a new base lease, this new permittee shall become responsible for all regulatory requirements relative to the wells identified within the lease document except that:
    - A) if the new permittee shall only also become responsible for all regulatory requirements relative to the wells identified on within the notification of transfer form submitted in accordance with Section 240.1430 of this Part; and
  - B) if the new base lease conveys the right to produce from all formations, and the new base lessee permits or operates any injection well located within the tract of land being leased, converts any production well to an injection well or drills a new injection well within this area, this new permittee shall become responsible for all regulatory requirements relative to all wells, concrete storage structures, pits and tank batteries in existence within such tract of land and all wells producing from or open to the formation into which injection will occur; or
  - C) if the new base lease conveys the right to produce from specified formations only, and the new base lessee permits or operates any injection well located within the formations specified in the new base lease, converts any production well to an injection well or drills a new injection well to the specified formations, this new permittee shall become responsible for all regulatory requirements relative to all wells drilled to the same formation as the injection well, and all concrete storage structures, pits and tank batteries in existence relative to that formation.
- 3) a new permittee who is an assignee:
  - a) if the new permittee came into possession of the right to operate wells by virtue of a lease assignment or appointment, by a court of competent jurisdiction, as trustee or receiver, in accordance with Section 240.1410(a)(4) of this Part, this new permittee shall become responsible for all regulatory requirements relative to all wells, concrete storage structures, pits and tank batteries in existence within the lease hold being assigned.
  - c) If any well, or any lease or other unit associated with the well, is in violation of the Act or this Part rules at the time of the transfer to the new permittee, the new permittee shall be notified of the violations and the amount of time allotted by the Department



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time for abatement. 7 at the time of transfer.

d) The current permittee (Seller) is not liable for any violation of the Act caused by the actions of the new permittee (Buyer) during the permit transfer process, after notice is given to the Department by the current permittee of the pending transfer. However, if the transfer is denied by the Department, the current permittee assumes all responsibility for the violations of the Illinois Oil and Gas Act caused by the proposed new permittee. Nothing in this subsection (d) shall affect the contractual rights and obligations of the Seller and Buyer.

e) The transfer of a permit pursuant to this Subpart shall not affect the rights of the Department, or any obligation or duty of the current permittee arising under the Act and this Part rules. Any cause of action accruing or any action or proceeding had or commenced, whether administrative, civil or criminal, may be instituted or continued without regard to the transfer of the permit in accordance with this Subpart.

f) A current or new permittee may request a hearing in accordance with Section 240.1490 to challenge a permit transfer.

(Source: Amended at 21 Ill. Reg. 7104 effective JUN 03 1997)

### Section 240.1470 Revocation of Permit to Transfer Casing--Pulley--Bond (repeated)

a) The Department shall revoke a permit to transfer if:

- 1) The transfer was issued in error;
  - 2) The applicant falsified or otherwise misstated any information on or relative to the transfer request;
  - 3) The applicant failed to abate a violation of the Act specified in a final administrative decision of the Department;
  - 4) an officer, director, partner, or person with an interest in the applicant exceeding 5% failed to abate a violation of the Act specified in a final administrative decision of the Department; or
  - 5) the applicant is an officer, director, partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Act specified in a final administrative decision of the Department. (Section 9a of the Act)
- b) The Department shall notify the permittee of its intent to revoke a permit transfer effective 30 days from the date of notice unless a hearing is requested in accordance with Section 240.251(c) of this Part.

(Source: Added at 21 Ill. Reg. 7104 effective JUN 03 1997)

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## Section 240.1480 Administrative Record Correction Transfer

a) The Department may administratively transfer a permit to a person required to be the permittee under the Act when the Department determines, based on its records and documents of title submitted to or collected by the Department it, that the current permittee is not an owner of the well as defined in the Act, and:

- 1) the actual sale, assignment, or similar transfer transaction between the parties occurred before September 26, 1991; or
- 2) the transfer was not made by the Department due to a clerical oversight during a previous transfer.

b) The permittee shall pay the required transfer fee for transfers occurring under the provisions of this Section that are dated after September 26, 1991. The permittee must satisfy the requirements of Section 240.1440(c) and (d).

c) Transfers occurring under the provisions of this Section shall not be subject to the requirements of Section 240.1460(a) of this Part.

d) Prior to operating the transferred wells the permittee must provide a bond, if required, in accordance with Section 240.1500(a)(1) and (2).

e) Upon determination of an Administrative Record Correction Transfer, the Department shall notify the current and new permittees of the transfer which will be effective 30 days from the date of notice unless a hearing is requested in accordance with Section 240.1490 below.

(Source: Amended at 21 Ill. Reg. 7104 effective JUN 03 1997)

## SUBPART O: BONDS

## Section 240.1500 When Required, Amount and When Released

a) To Drill, Deepen, Convert or Operate an Oil or Gas Well

- 1) A bond, in the amount as herein provided, shall be submitted along with an application to drill, deepen, convert, operate or transfer a production or Class II well if:

- A) such applicant was not an owner on September 26, 1991 of the right to drill and produce the well or wells in the transfer request in a well-of-record with the Department on September 26, 1991; or
- B) such applicant was not a permittee of record on September 26, 1991; or
- C) such applicant has had a bond forfeited or is the subject of an unappealed Department abandoned well Order for non-payment of annual well fees; or
- D) such applicant was not assessed an annual well fee as of July 1 preceding the application date; or
- E) such applicant has had funds expended and/or wells plugged



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on its behalf by the Department using funds from the Plugging and Restoration Fund; or:

F) such applicant is not an appointed trustee or receiver in accordance with Section 240.1410(a)(4) of this Part.

- 2) When a bond is required to be filed with the Department to drill, deepen, convert or operate an oil or gas well, the amount of the bond shall be:

- A) \$1,500 for a well less than 2000 feet deep;
- B) \$3,000 for a well 2,000 or more feet deep;
- C) \$25,000 for up to 25 wells of a permittee;
- D) \$50,000 for up to 50 wells of a permittee; or
- E) \$100,000 for all wells of a permittee.

- 3) A bond submitted pursuant to Section 240.1500(a) shall be released when:

- A) all wells covered by the bond are plugged and restored in accordance with Subpart N of these rules; or
- B) all wells covered by the bond are transferred in accordance with Subpart N of these rules; or
- C) the permittee has paid assessments to the Department in accordance with Section 19.7 for two-~~t~~ 2+ consecutive years and such permittee is not in violation of the Act.

- b) To Operate a Liquid Oilfield ~~Oil-Field~~ Waste Transportation System
- The amount of bond required to be filed with the Department before a permit is issued authorizing a person to operate a liquid oil field waste system shall be \$10,000. When requested by permittee, bond shall be released when the permittee ceases operation and this system and such permittee's system is not in violation of the Act.

- c) To Drill a Test Hole
- The amount of bond required to be filed with the Department before a permit is issued to drill a geological structure, coal or other mineral test hole, or a monitoring well in connection with any activity regulated by the Department shall be \$2500 for each permit hole or a blanket bond of \$25,000 for all permits holes. The bond requirements of this Subpart shall not apply to a hole or well drilled on acreage permitted and bonded under the Surface-Mined Land Conservation and Reclamation Act [225 ILCS 715] or the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]. When requested by permittee, bonds shall be released when the hole or holes are plugged and restored in accordance with Section 240.1260 and the permittee is not in violation of the Act.

(Source: Amended at 21 Ill. Reg. 7154, effective 11/13/99)

## SUBPART P: WELL PLUGGING AND RESTORATION PROGRAM

## Section 240.1600 Definitions

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The following definitions are applicable to this Subpart:

"Abandoned Well" means:

A well:

for which the underlying lease has been released in writing by the lessee or has been declared forfeited or invalid by a court order, such order is final and the appeal period has lapsed; and

the lessor states in writing that the lessor has not leased out the oil and gas working interest to any other person and does not intend to so lease, that the lessor does not intend to operate the well, and that the lessor desires that the well be plugged; or

A well owned by a permittee who has made no payment by November 1 of a current annual well fee assessment; or

A well that has not produced for over two-~~t~~ 2+ years and has failed to comply with temporary abandonment requirements in accordance with Section 240.1130 of this Part.

"Emergency Project" means an emergency-well-plugging-or emergency well site or crude oil remediat production work-PRP-Project, facility clean up, or crude oil spill remediation, of conditions endangering waters of the U.S. as defined by the Federal Oil Pollution Act of 1990.

"Emergency Remedial Work" means remedial work to repair or contain leaks, as a direct result of a leaking well, from production equipment, pits, or other containment structures of oil or saltwater that are contaminating surface waters, ground waters or are flowing in sufficient quantity to create an increasing area of contamination on the surface of the land.

"Emergency Well Plugging" means the plugging and abandonment of a well or wells that are actively flowing oil or saltwater and are contaminating surface waters, ground waters or flowing in sufficient quantity to create an increasing area of contamination on the surface of the land, or a well leaking natural gas or hydrogen sulfide gas in sufficient quantity to endanger public safety or create a fire hazard or a non-leaking well which poses an imminent danger to public safety.

"Orphaned--Well"--means-a well-for-which-no-permittee-exists-or-can-be located,no-bond-exists-and-no-fees-have-been-paid-in-accordance--with Section-19.7-of-the-illinois-Oil-and-Gas-Act.

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"PRF" means the Department's Plugging and Restoration Fund, established under Section 6 of the Illinois Oil and Gas Act.

"Well Site" means the area within the immediate vicinity of the wellhead and the associated lease tanks used for storage of crude oil and saltwater excluding produced water storage pits, concrete storage structures and centralized tank batteries associated with enhanced oil recovery projects.

(Source: Amended at 21 Ill. Reg. 71045 - effective 1/1/87)

## Section 240.1610 Plugging Leaking or Abandoned Wells

- a) If the Department finds, upon inspection, that a well drilled for the exploration, development, storage or production of oil or gas, or for injection, salt water disposal, salt water source, observation, and geological or structure test, may be abandoned or leaking salt water, oil, gas or other deleterious substances into any fresh water formation or onto the surface of the land, the Department may schedule a hearing pursuant to Section 19.1 of the Act to order the well plugged if abandoned or repaired or plugged if leaking.

## b) Hearings

- 1) Notice of Hearing  
Whenever the Department holds a hearing pursuant to Section 19.1 of the Act, the Department shall give written notice to the permittee and surface owner personally or by certified mail sent to the permittee's last known address. The notice shall include the date, time, place, nature of the hearing and the name and address of the hearing officer. The notice shall be mailed at least 14 days prior to the scheduled hearing date.
- 2) Right to Counsel, Appearance
  - A) Right to Counsel  
Any party may appear and be heard through an attorney at law authorized to practice in the State of Illinois.
  - B) Appearance of Attorney  
An attorney appearing in a representative capacity in any proceeding hereunder shall file a written notice of appearance identifying his or her name, address and telephone number, and identifying the party represented.
- 3) Burden and Standard of Proof  
The Department shall have the burden of proof at the hearing. The standard for decision shall be a preponderance of the evidence.
- 4) Hearing Officer; Powers and Duties
  - A) The Hearing Officer designated to preside over a hearing shall take all necessary action to avoid delay, to maintain order, and to develop a clear and complete record, and shall

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have all powers necessary and appropriate to conduct a fair hearing, including the following:

- i) To administer oaths and affirmations;
- ii) To receive relevant evidence;
- iii) To regulate the course of the hearing and the conduct of the parties and their counsel therein;
- iv) To consider and rule upon procedural requests;
- v) To hold conferences for the settlement or simplification of the issues; and
- vi) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony and set reasonable limits on the amount of time each witness may testify.

- B) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.

## 5) Hearing Location

All hearings under this Subpart shall be conducted in the Department's offices located at 300 West Jefferson Street, Suite 3007 in Springfield, Illinois. However, the Department may conduct a hearing under this Subpart at a site located closer than Springfield, Illinois, to the production and injection/disposal well identified in the Notice of Hearing if facilities are available and satisfactory to the Department.

## 6) Pre-Hearing Conferences

- A) Upon the motion of either party, the Hearing Officer shall schedule a conference in order to:
  - i) Simplify the factual and legal issues presented by the hearing request;
  - ii) Receive stipulations, admissions of fact and of the contents and authenticity of documents;
  - iii) Exchange lists of all witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and
  - iv) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.
- B) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all of the parties.
- 7) Postponement or Continuance of Hearing
  - A) A hearing may be postponed or continued for due cause by the Hearing Officer or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 5 business days

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prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuance so that the subject matter of the hearing may be resolved expeditiously.

## 8) Default

If a party, after proper service of notice, fails to appear at a pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed and make its decision in the absence of such party. If the failure to appear at such pre-hearing conference or hearing is due to emergency situation beyond the party's control, and the Department is notified of such situation on or before the scheduled pre-hearing conference or hearing date, the pre-hearing conference or hearing will be continued or postponed pursuant to subsection (b)(7) above. Emergency situations include sudden unavailability of counsel, sudden illness of a party or his representative, or similar situations beyond the party's control.

9) Within 30 days after the close of the hearing record, the Hearing Officer shall issue proposed findings of fact, conclusions of law and recommendations as to the disposition of the case.

10) The Director shall review the administrative record in conjunction with the hearing officer's recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case. The Director shall then issue the Department's final administrative decision affirming, vacating or modifying the hearing officer's decision.

c) Upon the issuance of a final administrative decision which finds that a well has been abandoned or is leaking salt water, oil, gas or other deleterious substances into any fresh water formation or onto the surface of the land, the permittee shall, within thirty (30) days, properly plug, replug or repair the well so as to remedy the situation.

d) If the permittee fails to remedy the situation within thirty (30) days from the date of the order, the Department may authorize any person to enter upon the land and plug, replug, or repair the well and restore the well site. The cost of all work completed under this subsection (d) shall be paid from the Annual Well Fee portion of the Plugging and Restoration Fund.

(Source: Amended at 21 Ill. Reg. 7164, effective JUN 9 1997)

## Section 240.1620 Plugging Orphaned Orphan Wells

a) If upon review of Department records a determination is made that no permittee can be located, the well is not located on a valid lease, no bond exists and no fees have been paid in accordance with Section 19.7 of the Act, the well shall be deemed an orphaned orphan well.

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- b) The Department may elect to plug, replug or repair the well and/or restore the well site of any orphaned orphan well.
- c) If the Department determines that any condition or practice exists which creates an imminent danger to the health or safety of the public, or an imminent danger of significant environmental harm or significant damage to property, the Department or its agent may immediately take any action necessary to temporarily correct the source of oil, or salt water, gas or other deleterious substances intrusion into fresh water zones or onto the surface.
- d) The cost of all work completed under this Section shall be paid from the bond forfeiture monies portion of the Plugging and Restoration Fund.

(Source: Amended at 21 Ill. Reg. 7164, effective JUN 9 1997)

## Section 240.1630 Emergency Well Plugging and Emergency Wells Remedial Work

a) If the Department determines that any condition or practice exists, or that any person or permittee is in violation of any requirement of the Act, this Part or any permit condition, and this practice, condition or violation creates an imminent danger to the health or safety of the public or an imminent danger of significant environmental harm or significant damage to property, the Department shall issue a cessation order pursuant to Section 240.170 of this Part to the last known permittee of record. The Department employee or agent issuing the cessation order may take any action deemed necessary to cause a cessation of operations and abatement of any condition. If the responsible party cannot be readily located, the Department cannot be readily located or is no longer in existence, the Department will not issue a cessation order and will take any action deemed necessary to correct the condition.

b) Upon the expiration of time within which abatement was required under the cessation order, if issued, the Department may take any action, including plugging the well and well site restoration, deemed necessary to cause a cessation of the danger to the public health and safety or environmental harm and abatement of any condition. The Department may elect to conduct tests and to take appropriate action to determine and temporarily correct the source of oil or salt water intrusion into fresh water zones or onto the surface.

c) The cost of all emergency well plugging and emergency remedial work completed under this Section shall be paid from the Annual Well Fee portion of the Plugging and Restoration Fund.

(Source: Amended at 21 Ill. Reg. 7164, effective JUN 9 1997)

## Section 240.1635 Emergency Projects



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- a) If the Department determines that any condition or practice exists which endangers the waters of the U.S. as a result of a crude oil spill or indicates the potential for a crude oil spill in accordance with the Federal Oil Pollution Act of 1990 (OPA), the Department may activate the OPA Fund in accordance with USEPA guidelines.
- b) The cost of all work completed under this Section shall be paid from the OPA reimbursement portion of the Plugging and Restoration Fund.

(Source: Added at 21 Ill. Reg. 71645, effective JAN 18 1997)

## Section 240.1640 Repayment of Funds

- a) The permittee must reimburse the Plugging and Restoration Fund for all funds obligated from the Plugging and Restoration Fund, excepting OPA monies, for repair, plugging or restoration work on the permittee's wells or sites, together with all interest accrued, as provided under Section 19.9 of the Act.
- b) Prior to repayment of all funds, the permittee shall not operate any other existing wells in the permittee's name.
- c) After repayment of all funds, the permittee shall post a bond in accordance with Section 240.1500(a)(1)(E) and (a)(2) for a period of 2 consecutive billing cycles in accordance with Section 240.1500(a)(3)(C) prior to permitting or operating any wells.

(Source: Amended at 21 Ill. Reg. 71645, effective JAN 18 1997)

## SUBPART Q: ANNUAL WELL FEES

## Section 240.1710 Annual Permittee Reporting

- a) Permittees are required to submit, on a form prescribed by the Department, an annual verification of address and status.
- b) The form shall contain reports for information on Permittees:
- 1) current address;
  - 2) verification of well ownership;
  - 3) type of business entity and supporting documentation;
  - 4) FEIN; and
  - 5) names and addresses of principals, officers or owners.
- c) Forms shall accompany the Annual Well Fee payment and shall be submitted by September 1 of each year.
- d) Authority of person signing forms

- 1) If the permittee is a sole proprietor, the form shall be signed by the individual. If the permittee is a partnership, the form shall be signed by a general partner. If the permittee is a corporation, the form shall be signed by an officer of the corporation.

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- 2) In lieu of the signature of the permittee, the form may be signed by a person having a power of attorney to sign for such permittee, provided a certified copy of the power of attorney is on file with the Department or accompanies the form.
- e) If a permittee did not submit an annual verification of address and status form during the most recent annual fee payment period, a reporting form is required at the time of all well permit and transfer requests.

(Source: Amended at 21 Ill. Reg. 71645, effective JAN 18 1997)

## SUBPART R: REQUIREMENTS IN UNDERGROUND GAS STORAGE FIELDS AND FOR GAS STORAGE AND OBSERVATION WELLS

## Section 240.1820 Permit Requests in a Underground Gas Storage Field

- a) When the proposed location to drill, deepen, convert or amend an oil or gas production or Class II well, as defined in Subparts B and C, or a Test Hole, as defined in Subpart L, occurs within the limits of an Underground Gas Storage Field, or within any protective boundary shown on the Gas Storage Operators map submitted to the Department, a permit shall not be issued until the applicant complies with subsections (a)(1) or (2) below:

- 1) Enters into an agreement with Gas Storage Operator, outlining safety precautions and well drilling, completion, operating and plugging specifications. The agreement shall be signed by the applicant and the Gas Storage Operator. Agreement shall be submitted with the permit application.
- 2) Submits a copy of an agreement previously reached with the Gas Storage Operator which governs the relationship between the applicant and the Gas Storage Operator with respect to safety precautions and which outlines safety precautions and well drilling, completion, operating and plugging issues specifications. The agreement must be in full effect and cover the proposed drilling location.
- 3) If an agreement cannot be reached after the applicant has exercised due diligence in negotiations, the applicant shall notify the Gas Storage Operator of the proposed location and depth of the well by certified mail, return receipt requested. The certified mail receipt shall be attached to the permit application. If a written objection is not received by the Department within fifteen (15) days after the date of receipt the permit shall be issued. If a written objection to the application is filed with the Department within fifteen (15) days after receipt of the notice of application, the Department shall consider the objection in determining whether the permit should be issued. If the objection raises a question regarding

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public safety, resource ownership or sufficiency of application, the permit objection shall be set for a public hearing. A hearing shall be set only after all other requirements for issuance of the permit have been fulfilled.

## b) Public Hearing

- 1) Any public hearing held pursuant to this Section shall be a formal hearing conducted by the Department solely for the purpose of resolving the factual or legal question raised by the objection.
- 2) Notice of the hearing shall be sent by the Department to the applicant and to the objector by mailing such notice by United States mail, postage prepaid, addressed to their last known home or business address.
- 3) A certified court reporter shall record the hearing at the Department's expense.
- 4) A Hearing Officer designated by the Department shall conduct the hearing. The Hearing Officer shall allow all parties at the hearing to present evidence in any form, included by oral testimony or documentary evidence, unless the Hearing Officer determines such evidence is irrelevant, immaterial, unduly repetitious, or of such such a nature that reasonably prudent members of the public or people knowledgeable in the oil and gas field would not rely upon it in the conduct of their affairs.
- 5) The Hearing Officer shall have the power to continue the hearing or to leave the record open for a certain period of time in order to obtain or receive further relevant evidence.
- 6) Within thirty--t 30t days after the closing of the record or the receipt of the transcript of the hearing, whichever comes later, the Department shall render a decision on the objection.

(Source: Amended at 21 Ill. Reg. 7164, effective JUN 22 1997)

### Section 240.1852 Gas Storage and Observation Well, Construction, Operating and Reporting Requirements

- a) Wells shall, at a minimum, be constructed in accordance with Section 240.610(a) and (b) of this Part.
- b) Wells shall be subject to the operating requirements of Section 240.630(a), (b) and (c) of this Part and the leaking well provisions of Section 240.1610 of this Part.
- c) Wells shall be subject to the reporting requirements of Section 240.640 and confidentiality provisions of Section 240.650 of this Part.

(Source: Added at 21 Ill. Reg. 7164, effective JUN 22 1997)

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## SUBPART S: REQUIREMENTS FOR SERVICE WELLS

### Section 240.1940 When Wells Shall Be Plugged and Department Notification

Service wells shall be plugged when no longer used for the purpose for which they were permitted, ~~unless converted in accordance with Section 240.1220~~. At least 24 hours prior to commencing plugging the permittee shall notify the District Office for the county in which the well is located.

(Source: Amended at 21 Ill. Reg. 7164, effective JUN 22 1997)

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1) Heading of the Part: The Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985

2) Code Citation: 68 Ill. Adm. Code 1175

3) Section Numbers: Adopted Action:

1175.100	Amendment
1175.105	Amendment
1175.110	Amendment
1175.200	Amendment
1175.205	Amendment
1175.210	Amendment
1175.215	Amendment
1175.220	Amendment
1175.225	Amendment
1175.230	Amendment
1175.235	Amendment
1175.300	Amendment
1175.305	Amendment
1175.310	Amendment
1175.320	Amendment
1175.325	Amendment
1175.330	Amendment
1175.335	Amendment
1175.340	Amendment
1175.345	Amendment
1175.350	Amendment
1175.360	Amendment
1175.370	Amendment
1175.400	Amendment
1175.405	Amendment
1175.410	Amendment
1175.415	Amendment
1175.420	Amendment
1175.425	Amendment
1175.430	Amendment
1175.435	Amendment
1175.500	Amendment
1175.505	Amendment
1175.510	Amendment
1175.520	Amendment
1175.525	Amendment
1175.530	Amendment
1175.535	Amendment
1175.540	Amendment
1175.545	Amendment
1175.550	Amendment
1175.560	Amendment

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1175.570	Amendment
1175.600	Repealed
1175.605	Repealed
1175.610	Repealed
1175.615	Repealed
1175.700	Amendment
1175.705	Amendment
1175.710	Amendment
1175.715	Amendment
1175.720	Amendment
1175.725	Amendment
1175.730	Amendment
1175.735	Amendment
1175.800	Amendment
1175.805	Amendment
1175.810	Amendment
1175.815	Amendment
1175.825	Amendment
1175.830	Amendment
1175.835	Amendment
1175.840	Amendment
1175.845	Amendment
1175.850	Amendment
1175.855	Amendment
1175.865	Amendment
1175.870	Amendment
1175.875	Amendment
1175.900	Repealed
1175.905	Repealed
1175.910	Repealed
1175.915	Repealed
1175.1000	Repealed
1175.1001	Amendment
1175.1005	Amendment
1175.1010	Amendment
1175.1015	Amendment
1175.1020	Amendment
1175.1025	Amendment
1175.1030	Amendment
1175.1035	Amendment
1175.1100	Amendment
1175.1105	Amendment
1175.1110	Amendment
1175.1115	Amendment
1175.1125	Amendment
1175.1130	Amendment
1175.1135	Amendment
1175.1140	Amendment



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1175.1145 Amendment  
 1175.1150 Amendment  
 1175.1155 Amendment  
 1175.1165 Amendment  
 1175.1170 Amendment  
 1175.1175 Amendment  
 1175.1200 Amendment  
 1175.1210 Amendment  
 1175.1215 Amendment  
 1175.1300 New Section

4) Statutory Authority: The Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985 [225 ILCS 410]

5) Effective Date of Rulemaking: May 29, 1997

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: May 29, 1997

9) Notice of Proposal Published in Illinois Register: July 12, 1996, at 20 Ill. Reg. 8813

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: Sections 1175.535, 1175.840 and 1175.1140, concerning requirements for cosmetology teachers, esthetics teachers and nail technology teachers, were amended as they relate to "Educational Psychology" and "Teaching Methods." The requirement that these areas be taught by a person qualified to teach at the college level or by a licensed teacher "who has completed a course of instruction that included the topics set forth above or an equivalent program" was eliminated.

In Section 1175.530(i), "All existing schools have until January 1, 1998, to comply with the requirements of this Section." rather than "1 year from the effective date of this Part".

The following changes in Section 1175.1200 relating to continuing education (CE) sponsors were made based on Public Act 89-706:

In subsection (a), eligible CE sponsors now include "accredited universities and colleges, industry or trade associations, corporate salons, franchise salons, independent salons, vocational and technical schools, cosmetology schools, and other entities."

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In subsection (c), a prohibition on product sales during the actual CE program was added.

In subsection (d), sponsors "may delegate recordkeeping duties to one of their members or members groups."

In subsection (h), sponsors "may subcontract with individuals and organizations to provide approved programs. These persons must meet the criteria established" in the Act.

Style, organization, grammar and spelling changes requested by JCAR also were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking updates the rules to conform with the 1995 sunset rewrite of the Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985.

Article IIID of the Act establishes that no person, firm, partnership, limited liability company or corporation shall own or operate a cosmetology, esthetics, or nail technology salon or barber shop without first applying for a certificate of registration from the Department of Professional Regulation. The proposed amendments establish procedures to obtain the required registration.

A fee of \$40 is established for registration of a barber shop or cosmetology, nail technician or esthetics salon. The renewal fee for registration of a shop or salon will be calculated at the rate of \$20 per year. The fee for changing the name or address of a registered barber shop or salon will be \$20. Established by the Act is a \$500 application fee for continuing education sponsors, along with a \$500 annual renewal fee.

Cosmetologists, barbers, estheticians, nail technicians, cosmetology teachers, barber teachers, esthetics teachers and nail technology teachers will be issued licenses rather than certificates of registration. Some current fees are increased in the proposed amendments while others remain the same. The application fee for licensure will be \$30, which is \$5 more than the current registration fee. The renewal fee also will increase by \$10 for a two-year license.

Statutory changes in continuing education (CE) requirements are incorporated into the rules, including a reduction in hours required for

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TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION  
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1175  
THE BARBER, COSMETOLOGY, ESTHETICS,  
AND NAIL TECHNOLOGY ACT OF 1985

SUBPART A: GENERAL

Section	Fees
1175.100	
1175.105	English Translations
1175.110	Granting Variances

SUBPART B: BARBER

Section	Examination - Barber
1175.200	
1175.205	Examination - Barber Teacher
1175.210	Examination Requirements
1175.215	Application for Licensure
1175.220	Endorsement
1175.225	Renewals
1175.230	Restoration - Barber
1175.235	Restoration - Barber Teacher

SUBPART C: BARBER SCHOOLS

Section	School Approval Application
1175.300	
1175.305	Physical Site Requirements
1175.310	Student Contracts
1175.315	Advertising
1175.320	Recordkeeping - Transcripts
1175.325	Recordkeeping - Hours Earned
1175.330	Curriculum Requirements - Barber
1175.335	Curriculum Requirements - Barber Teacher
1175.340	Final Examination
1175.345	Change of Ownership
1175.350	Change of Location
1175.355	Change of Name
1175.360	Expansion
1175.365	Discontinuance of Program
1175.370	Withdrawal of Approval

SUBPART D: COSMETOLOGY

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cosmetologists from 20 to 14 per renewal period. CE hours required to renew a cosmetology teacher license are increased from 10 hours to 24 hours, while esthetics teachers and nail technician teachers will need to obtain 20 hours instead of the current 10 hours to renew their licenses.

There are changes in the required curriculum for cosmetology, esthetics and nail technology schools. Changes include an internship program as an optional part of the curriculum.

Required enrollment agreements and refund policies for schools also are detailed in the proposed amendments. So are examination retake requirements for cosmetologists, estheticians, nail technicians, cosmetology teachers, esthetics teachers and nail technology teachers.

Numerous style and grammar changes also were made.

16) Information and questions regarding these adopted amendments shall be directed to:

Name: Jean Courtney  
Address: Department of Professional Regulation  
320 West Washington, 3rd Floor  
Springfield, Illinois 62786  
217/785-0813  
Telephone: 217/782-7645

The full text of the Adopted Amendment begins on the next page:

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

Section	
1175.400	Examination - Cosmetology
1175.405	Examination - Cosmetology Teacher
1175.410	Examination Requirements
1175.415	Application for Licensure
1175.420	Endorsement
1175.425	Renewals
1175.430	Restoration - Cosmetology
1175.435	Restoration - Cosmetology Teacher
	SUBPART E: COSMETOLOGY SCHOOLS
Section	
1175.500	School Approval Application
1175.505	Physical Site Requirements
1175.510	<u>Enrollment Agreements and Refund Policies Student-Contracts</u>
1175.515	Advertising
1175.520	Recordkeeping - Transcripts
1175.525	Recordkeeping - Hours Earned
1175.530	Curriculum Requirements - Cosmetology
1175.535	Curriculum Requirements - Cosmetology Teacher
1175.540	Final Examination
1175.545	Change of Ownership
1175.550	Change of Location
1175.555	Change of Name
1175.560	Expansion
1175.565	Discontinuance of Program
1175.570	Withdrawal of Approval

## SUBPART F: CONTINUING EDUCATION - COSMETOLOGY/COSMETOLOGY TEACHER

Section	
1175.600	Sponsor Approval <u>(Repealed)</u>
1175.605	Department Supervision <u>(Repealed)</u>
1175.610	Credit Hours <u>(Repealed)</u>
1175.615	Waiver of Continuing Education Requirements <u>(Repealed)</u>

## SUBPART G: ESTHETICS

Section	
1175.700	Examination - Esthetics
1175.705	Examination - Esthetics Teacher
1175.710	Examination Requirements
1175.715	Application for Licensure
1175.720	Endorsement
1175.725	Renewals
1175.730	Restoration - Esthetics
1175.735	Restoration - Esthetics Teacher

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## SUBPART H: ESTHETICS SCHOOLS

Section	
1175.800	Esthetics School Application
1175.805	Cosmetology Schools Approved to Teach Esthetics
1175.810	Physical Site Requirements
1175.815	<u>Enrollment Agreements and Refund Policy Student-Contracts</u>
1175.820	Advertising
1175.825	Recordkeeping - Transcripts
1175.830	Recordkeeping - Hours Earned
1175.835	Curriculum Requirements - Esthetics
1175.840	Curriculum Requirements - Esthetics Teacher
1175.845	Final Examination
1175.850	Change of Ownership
1175.855	Change of Location
1175.860	Change of Name
1175.865	Expansion
1175.870	Discontinuance of Program
1175.875	Withdrawal of Approval

## SUBPART I: CONTINUING EDUCATION - ESTHETICIAN/ESTHETICS TEACHER

Section	
1175.900	Sponsor Approval <u>(Repealed)</u>
1175.905	Department Supervision <u>(Repealed)</u>
1175.910	Credit Hours <u>(Repealed)</u>
1175.915	Waiver of Continuing Education Requirements <u>(Repealed)</u>

## SUBPART J: NAIL TECHNOLOGY

Section	
1175.1000	Application for Licensure under Sections 3C-4 and 3C-5 of the Act (Grandfather) <u>(Repealed)</u>
1175.1001	Examination - Nail Technician
1175.1005	Examination - Nail Technology Teacher
1175.1010	Examination
1175.1015	Application for Licensure
1175.1020	Endorsement
1175.1025	Renewals
1175.1030	Restoration - Nail Technician
1175.1035	Restoration - Nail Technology Teacher

## SUBPART K: NAIL TECHNOLOGY SCHOOLS

Section	
1175.1100	Nail Technology School Application
1175.1105	Cosmetology Schools Approved to Teach Nail Technology
1175.1110	Physical Site Requirements



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1175.1115 Enrollment Agreements and Refund Policies Student-Contracts  
 1175.1120 Advertising  
 1175.1125 Recordkeeping - Transcripts  
 1175.1130 Recordkeeping - Hours Earned  
 1175.1135 Curriculum Requirements - Nail Technology Teacher  
 1175.1140 Curriculum Requirements - Nail Technology Teacher  
 1175.1145 Final Examination  
 1175.1150 Change of Ownership  
 1175.1155 Change of Location  
 1175.1160 Change of Name  
 1175.1165 Expansion  
 1175.1170 Discontinuance of Program  
 1175.1175 Withdrawal of Approval

SUBPART L: CONTINUING EDUCATION---NAIL-TECHNICIAN/NAIL-TECHNOLOGY  
 TEACHER

Section  
 1175.1200 Sponsor Approval  
 1175.1205 Department Supervision  
 1175.1210 Credit Hours  
 1175.1215 Waiver of Continuing Education Requirements

## SUBPART M: SHOP REGISTRATION

Section  
 1175.1300 Application for a Barber Shop or Cosmetology, Nail Technician or  
 Esthetics Salon Certificate of Registration

AUTHORITY: Implementing the Barber, Cosmetology, Esthetics, and Nail  
 Technology Act of 1985 [225 ILCS 410] and authorized by Section 60(7) of the  
 Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Adopted at 12 Ill. Reg. 20488, effective November 29, 1988; emergency  
 amendments at 13 Ill. Reg. 6810, effective April 10, 1989, for a maximum of 150  
 days; amended at 13 Ill. Reg. 15034, effective September 7, 1989; amended at 14  
 Ill. Reg. 14090, effective August 20, 1990; amended at 16 Ill. Reg. 13276,  
 effective August 18, 1992; amended at 18 Ill. Reg. 4856, effective March 14,  
 1994; amended at 21 Ill. Reg. 7977, effective MAY 24, 1997.

SUBPART A: GENERAL

## Section 1175.100 Fees

- a) Licensure fees for cosmetologists, barbers, estheticians, nail  
 technicians, cosmetology teachers, barber teachers, esthetics teachers  
 and nail technology teachers are: Certificate---of---Registration  
(Certificate)-as-a-Registered-Cosmetologist- Barber- Esthetician- Nail

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Technician---Cosmetology-Teacher- Barber-Teacher- Esthetics-Teacher-or  
Nail-Technology-Teacher-

- 1) License Certificate-of-Registration. The fee for application for  
 a license certificate-of---registration is \$30 and is to be  
 submitted with the application \$25.
- 2) Examination. Applicants applicants for any examination shall be  
 required to pay, either to the Department of Professional  
 Regulation (the Department) or to the designated testing service,  
 a fee covering the cost of providing the examination.
- 3) Renewal. The fee for renewal of a license certificate---of  
registration shall be calculated at the rate of \$25 \$20 per year.
- 4) Restoration. The fee for restoration of a license certificate-of  
registration is \$10 plus payment of all lapsed renewal fees, but  
 not to exceed \$135 \$110.
- 5) Restoration From Inactive Status. The fee for restoration of a  
license cosmetologist---certificate-of-registration from inactive  
 status is the current renewal fee.
- 6) Endorsement. The fee for a license certificate---of---registration  
 for a cosmetologist, barber, esthetician, nail technician,  
 cosmetology teacher, barber teacher, esthetics teacher or nail  
 technology teacher licensed under the laws of another  
 jurisdiction is \$45 \$35.
- b) Licensure fees for cosmetology schools, barber schools, esthetics  
 schools or nail technology schools are: Certificate-as-a-Registered  
Cosmetology-School- Barber-School- Esthetics-School-or-Nail-Technology  
School
  - 1) License Certificate-of-Registration. The fee for a license  
certificate---of---registration is \$150 \$50 plus the cost of  
 inspection (\$50).
  - 2) Change of Ownership. The fee for a license certificate resulting  
 from a change of ownership is \$150 \$50 plus the cost of  
 inspection (\$50).
  - 3) Change of Location. The fee for a license certificate resulting  
 from a change of location is \$150 \$50 plus the cost of inspection  
 (\$50).
  - 4) Change of Name. The fee for a license certificate resulting from  
 a change of name is \$20.
  - 5) Renewal. The fee for renewal of a license certificate-of  
registration shall be calculated at \$100 per year.
- c) Salon Fees
  - 1) Registration. The fee for registration of a barber shop or  
 cosmetology, nail technician or esthetics salon (salon) is \$40.
  - 2) Change of Name. The fee for changing the name or address of a  
 registered barber shop or salon is \$20.
  - 3) Renewal. The fee for renewal of a registration for a barber shop  
 or salon is calculated at \$20 per year.
- d) Sponsor Fees - The fee for registration as a continuing education  
 sponsor shall be \$500 per year pursuant to Section 4-1.5(d) of the

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## Act.

- e) General Fees
- 1) Duplicate/Replacement. The fee for the issuance of a duplicate or replacement license certificate is \$20.
  - 2) Change of Name or Address. The fee for issuance of a license certificate with a change of name or address other than during the renewal period is \$20. No fee is required for name and address changes on Department records when no license certificate is issued.
  - 3) Certification of Record. The fee for certification of a licensee's registration record for any purpose is \$20.
  - 4) Wall Certificate. The fee for a wall certificate showing a licensee's registration is the actual cost of producing such a certificate.
  - 5) Roster. The fee for a roster of persons licensed registered as cosmetologists, cosmetology teachers, barbers, barber teachers, estheticians, esthetics teachers, nail technicians, nail technology teachers, cosmetology schools, esthetics schools, nail technology schools, and barber schools, and shops and salons is the actual cost of producing such a roster.
  - 6) Inactive Status. The fee to place a cosmetology license on inactive status, other than during renewal, is \$20.

(Source: Amended at 21 Ill. Reg. 70777, effective 70777)

## Section 1175.105 English Translations

Any document submitted to the Department, in accordance with the the Barber, Cosmetology, and Esthetics, and Nail Technology Act of 1985 (the "Act") [225 ILCS 4101 411-Rev-1987-chr-111-par-1701-et-seq] and this Part, in a foreign language must be accompanied by an original, notarized English translation. The translator must be fluent in both English and the foreign language and must certify to the accuracy of the translation.

(Source: Amended at 21 Ill. Reg. 70777, effective 70777)

## Section 1175.110 Granting Variances

- a) The Director of the Department may grant variances from this Part in individual cases where he/she finds that:
  - 1) The provision from which the variance is granted is not statutorily mandated;
  - 2) No party will be substantially injured by granting the variance; and
  - 3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

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- b) The Director of the Department shall notify the Barber, and Cosmetology, Esthetics, and Nail Technology Committee of the granting of such variance, and the reasons therefor, at the next meeting of the Committee.

(Source: Amended at 21 Ill. Reg. 70777, effective 70777)

## SUBPART B: BARBER

## Section 1175.200 Examination - Barber

## a) Eligibility.

- 1) Each applicant must meet the requirements in Section 2-2(a), (b)7 and (c) or 2-3(a), (b), and (c) and (d) of the Act prior to filing an application for the Department authorized examination.
- 2) An applicant's training must be received from a barber school approved by the Department that which meets the requirements set forth in Subpart C of this Part.
- b) Application. Each applicant shall file an application for examination, on forms provided by the Department, at least 45 days prior to an examination date. The application shall include:
  - 1) An official transcript showing successful completion of the required training outlined in Section 2-2(c) and 2-3(c) and (d) of the Act and a passing grade on the final examination administered by the school as set forth in Section 1175.340;
  - 2) A complete work history since graduation from barber school;
  - 3) Proof of any name change (i.e., marriage license, divorce decree, affidavit, or court order); and
  - 4) The required examination fee.
- c) Individuals who do not obtain a license within 5 years of graduation from barber school will be required to complete a 250 hour refresher course before they may obtain a license.

(Source: Amended at 21 Ill. Reg. 70777, effective 70777)

## Section 1175.205 Examination - Barber Teacher

- a) Eligibility. Each applicant must meet the requirements in Section 2-4(a), (b), (c)7 and (d) of the Act prior to filing an application for the barber teacher examination.
- b) Application. Each applicant shall file an application, on forms provided by the Department, at least 45 days prior to an examination date. The application shall include:
  - 1) Proof of any name change (i.e., marriage license, divorce decree, affidavit, or court order);
  - 2) The required examination fee; and

## DEPARTMENT OF PROFESSIONAL REGULATION

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- 3) Either:
- An official transcript from an approved barber school (see Subpart C) showing successful completion of 500 hours of teacher training as outlined in Section 1175.335 of this Part; employment verification showing at least 3 years of practical experience as a registered barber; or
  - An official transcript from an approved barber school showing successful completion of 1000 hours of barber teacher training as outlined in Section 1175.335 of this Part;
- A complete work history since graduation from barber school; and
  - A copy of the applicant's current Illinois barber license.

(Source: Amended at 21 Ill. Reg. 175.335, effective May 2, 1994)

## Section 1175.210 Examination Requirements

- Examinations ~~A--separate--~~examination shall be administered by the Department or its designated testing service for barbers and teachers of barbering ~~each license category and shall cover subject matter as set forth in Section 2-7 of the Act.~~
- The passing grade on each examination is 75.

(Source: Amended at 21 Ill. Reg. 175.210, effective May 2, 1994)

## Section 1175.215 Application for Licensure

Each applicant shall submit to the Department:

- A signed and completed licensure application which the applicant will receive with the notification of successful completion of the examination;
- Proof of name change (i.e., marriage license, divorce decree, affidavit, or court order) if different from that shown on pre-printed licensure application; and
- The required fee set forth in Section 1175.100.

(Source: Amended at 21 Ill. Reg. 175.215, effective May 2, 1994)

## Section 1175.220 Endorsement

- An applicant who is currently licensed as a barber in another jurisdiction and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Department, which shall include:
  - A certification from the state of original licensure stating:

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- ~~The number of barber-training hours received;~~
  - ~~A brief description of any licensure examination taken and the grades received; and~~
  - ~~Whether the applicant's file contains any record of disciplinary actions taken or pending;~~
- Official transcripts from the school(s) attended by the applicant showing the courses completed and the hours received with the school seal affixed or a verification from the licensing authority of the number of hours required for licensure at the time the applicant was originally licensed;
  - Certification of current licensure if other than original licensure;
  - Two completed Verification of Employment forms showing at least 3 years of lawful practice in another jurisdiction if:

- the jurisdiction of original licensure does not require a licensing examination or has not provided an examination score; or
  - the applicant is applying under Section 2-4a of the Act;
- A complete work history showing all employment since graduation from barber school to present;
  - Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on any of the documents submitted attached documents;

- The required fee set forth in Section 1175.100; and
  - A copy of the licensing act applicable on the date of original licensure showing the requirements for licensure if requested by the Department in the application review. The Department will make such a request if the application materials are incomplete.
- An applicant who is currently licensed as a barber teacher in another jurisdiction and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Department, which shall include:

- A certification from the state of original licensure stating:
  - ~~The number of barber-teacher-training hours received;~~
  - ~~A brief description of any licensure examination taken and the grades received; and~~
  - ~~Whether the applicant's file contains any record of disciplinary action taken or pending;~~
- Official transcripts from the school(s) attended by the applicant showing the courses completed and the hours received with the school seal affixed or a verification from the licensing authority of the number of hours required for licensure at the time the applicant was originally licensed;
- Certification of current licensure if other than original licensure;
- Two Verification of Employment forms shall be submitted by the applicant who completed at least 500 hours of teacher training but less than 1000 hours. A barber teacher applicant shall



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verify 3 years of lawful practice as a barber;--

5) A complete work history showing all employment since graduation from basic barber school to present;

6) Proof of name change (i.e., marriage license, divorce decree, affidavit, or court order) if name is other than that shown on any of the documents submitted;

7) A copy of the applicant's barber license or verification from the licensing authority that the applicant has the ability to practice barbering with a barber teacher license current-illinois license-as-a-barber;

8) The required fee set forth in Section 1175.100; and

9) A copy of the licensing act applicable on the date of original licensure showing the requirements for licensure if requested by the Department in the application review. The Department will make such a request if the application materials are incomplete.

c) An applicant for licensure as a barber who is licensed in another jurisdiction shall be given 300 hours of educational credit for every 12 month period during which he/she was lawfully employed as a barber. To obtain credit for work experience, the applicant must submit verification of employment on forms provided by the Department in support of the work experience. A certification of licensure from the jurisdiction in which the lawful practice is claimed must also be submitted.

d) An applicant applying for licensure as a barber or barber teacher on the basis of endorsement who has previously failed the licensing examination in Illinois shall not be approved for licensure on the basis of endorsement unless and until he/she provides verification of successful completion of a substantially equivalent licensure examination. The successful completion of the substantially equivalent examination must occur after the most recently failed examination attempt in Illinois.

(Source: Amended at 21 Ill. Reg. 7291, effective MAY 24 1997)

## Section 1175.225 Renewals

a) Barber, barber teacher and barber school licenses shall expire on July 31 of each odd numbered year. The holder of a license certificate--of registration may renew that license such-certificate during the month preceding its expiration date.

b) Applicants for renewal shall:

1) Return a completed renewal application; and

2) Submit the required fee set forth in Section 1175.100.

c) It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee or to renew a license.

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(Source: Amended at 21 Ill. Reg. 7292, effective MAY 24 1997)

## Section 1175.230 Restoration - Barber

a) A person applying for restoration of his/her license as a barber which has been expired for less than 5 years shall submit an application on forms provided by the Department and \$10 plus payment of lapsed renewal fees as set forth in Section 1175.100(a)(4). If restoring after active military service, the applicant shall submit a copy of the applicant's Honorable Discharge form (DD-214) and the current renewal fee.

b) A person applying for restoration of his/her license as a barber which has been expired for 5 years or more shall submit an application on forms provided by the Department along with:

1) Verification of employment as a barber attesting--to--lawful practice in another jurisdiction within the 5 years preceding application for restoration;

2) Certification of licensure from the appropriate licensing authority in the jurisdiction of employment stating-that-said practice-was-authorized;

3) A complete work history showing all employment since the Illinois license lapsed;

4) A completed Restoration Questionnaire;

5) The required fee set forth in Section 1175.100; or -

6) If restoring from active military service, a copy of the applicant's DD-214 must-be-submitted and the current renewal fee.

c) An applicant for restoration who has not maintained a practice in another jurisdiction shall also submit official transcripts showing successful completion of a 250 hour refresher course from a licensed barber or cosmetology school or successful completion of the examination set forth in Section 1175.210 within 2 years before application for restoration an-approved-barber-school.

d) If an applicant takes and fails the examination, the license will not be restored until such time as he/she has successfully completed the examination.

(Source: Amended at 21 Ill. Reg. 7292, effective MAY 24 1997)

## Section 1175.235 Restoration - Barber Teacher

a) A person applying for restoration of a license his--certificate as a registered barber teacher which has been expired for less than 5 years shall file an application, on forms provided by the Department, and the required fee. If restoring after active military service, the applicant shall submit a copy of the applicant's DD-214 and the current renewal fee.

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- b) A person applying for restoration of a license his--certificate as a barber teacher which has been expired for 5 years or more shall submit an application on forms provided by the Department, along with:
- 1) Verification of employment as a barber teacher attesting-to lawfu-teaching-practice in another jurisdiction within the 5 years preceding application for restoration;
  - 2) A certification of licensure from the appropriate licensing authority in the jurisdiction of employment stating--that--said practice-was-authorized;
  - 3) A complete work history showing all employment since the Illinois teacher license lapsed;
  - 4) A completed restoration questionnaire;
  - 5) A copy-of-the-applicant's-current-illinois-barber-license;-and
  - 5)6) The required fee set forth in Section 1175.100; or-
  - 5)7) If restoring after active military service, a copy of the applicant's DD-214 form and the current renewal fee.
- c)9) An applicant for restoration who has not maintained an active teaching practice in another jurisdiction shall also submit official transcripts showing successful completion of a 250 hour barber teacher refresher course or successful completion of the examination set forth in Section 1175.210 within 2 years after applying for restoration of the license from-an-approved-barber-school.
- d) If an applicant takes and fails the examination, the license will not be restored until such time as he/she has successfully completed the examination.

(Source: Amended at 21 Ill. Reg. 709 E, effective MAY 21 1981)

## SUBPART C: BARBER SCHOOL

## Section 1175.300 School Approval Application

- a) An applicant for a barber school license shall submit a completed application to the Department with the following information and documentation:
- 1) A detailed floor plan consistent with the requirements of Section 1175.305 of this Part;
  - 2) A copy of a lease showing at least a 1 one year commitment to the use of the school site or certification of ownership of the proposed school site;
  - 3) If owner is a corporation, a copy of the Articles of Incorporation;
  - 4) If owner is a partnership, a listing of all partners and their current addresses;
  - 5) A signed fire inspection report by the local fire inspection authority within the last 6 months giving approval for use of the site as a school;

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- 6) A financial statement prepared by a public accountant licensed under the Illinois Public Accounting Act [225 ILCS 450] who is not an employee of the school, indicating sufficient finances exist to operate the school for 1 full year; A-completed financial-statement-of-asset-liabilities-and-net-worth--showing the-owner's-ability-to-operate-the-school-for-at-least-one-year as-evidenced-by--the-owner's--signature--certifying--that--the information-is-true;
- 7) A copy of the official student contract to be used by the school which shall be consistent with the requirements of Section 1175.310 of this Part;
- 8) A listing of all teachers, including their teacher license numbers, who will be in the school's employ;
- 9) A copy of the curricula that which will be followed;
- 10) A copy of the school's official transcript; and
- 11) The required fee set forth in Section 1175.100.
- b) When the above items have been received, the Department shall inspect the school premises, prior to school approval, to determine compliance with this Subpart. School operations shall not commence nor shall the school in any way solicit student enrollment, until the school has received written notice of approval from the Department. Approval will be granted if the requirements of this Subpart have been met.
- c) Barber schools shall only offer instruction in barbering and barber teacher education.

(Source: Amended at 21 Ill. Reg. 709 E, effective MAY 21 1981)

## Section 1175.305 Physical Site Requirements

## a) Space Requirements

- 1) A school shall have a minimum of 1,000 square feet of work space for a maximum of 25 students in the work area. An additional 30 square feet of work space is required for each additional student if attendance exceeds 25 at any given time.
- 2) Work space shall include: dispensary and laboratory area; work space shall not include classrooms, rest rooms, halls, checkrooms, locker space, conference rooms, storage spacer or other areas or facilities for school administration.
- 3) Two restrooms shall be provided.
- 4) Separate cloak space shall be provided which may be used both by students and the public.
- 5) A public waiting area must be provided.
- 6) Schools shall provide a student lounge area which shall be separated from the work area.
- 7) All areas of the school shall be ventilated and lighted.
- 8) licensed-barber-schools--shall--not--be-required-to-comply-with these-requirements--However--if--an-existing-licensed--barber

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~~school--expands--to--meet--the--demands--of--increased--enrollment--it will be required to comply with this subsection:~~

- b) Equipment Requirements - All equipment shall be in working condition and sufficient for the number of students enrolled. ~~Minimum requirements for school equipment are: A--school--shall--have--the following equipment:~~

- 1) An entrance sign designating the name of the school.
- 2) A school seal.
- 3) A time clock or other equipment necessary for verification of attendance and hours earned.
- 4) Four shampoo chairs and 4 ~~four~~ shampoo bowls with adequate hot and cold running water.
- 5) Clinic station shall have at least 3 feet per student in the class including electrical outlets, mirror space, wet sanitizer and either a barber chair or styling chair.
- 6) Desk/table space and a chair for each student in the classroom.
- 7) Locker space for each student in attendance.
- 8) Adequate covered disposal cans placed at convenient locations.
- 9) One covered container for soiled towels for each 10 students in clinical work area.
- 10) Closed cabinets equipped for storing towels. Cabinets must have storage space for 10 ~~10+~~ dozen towels per 20 students in clinical work area.

## c) Sanitary Regulations

- 1) Clean outer garments must be worn at all times. No open toed shoes shall be worn by students.
- 2) All instruments shall be sanitized before and after use on each patron.
- 3) Clean towels shall be used for each patron.
- 4) Shampoo bowls must be sanitized after each use.
- 5) Hands must be cleansed before and after serving each patron.
- 6) After ~~serving~~ each patron is served, combs and brushes must be cleansed, then immersed in a disinfectant, then rinsed in water and dried. Combs and brushes shall be kept in a closed container apart from appliances that ~~which~~ have not been disinfected.
- 7) The head rests of any chair shall be protected with a disposable cover and changed after each patron.
- 8) Non-disposable head coverings must be laundered and sanitized after each separate use.
- 9) All powders, lotions, creams, and other cosmetics shall be kept in clean, closed containers. All cosmetics shall be applied by sanitary applicators and removed from the container with a sanitary spatula.
- 10) No owner, manager, teacher, or school administrator shall knowingly permit any person suffering from a serious communicable disease as defined in 77 Ill. Adm. Code 690 to work on the premises, or knowingly permit a student to serve a patron with a serious communicable disease.

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- 11) No animals or pets, except seeing eye dogs, shall be permitted on school premises.
- 12) The floors, walls and furniture shall be kept clean at all times.
- 13) An adequate supply of hot and cold running water shall be available for school operation.
- d) Textbooks/Teaching Materials - Textbooks shall be provided for each student in attendance.
- e) Teachers - The student/teacher ratio shall not exceed a 25 to 1 ratio.

(Source: Amended at 21 Ill. Reg. NO. 10 effective MAY 2, 1990)

## Section 1175.310 Student Contracts

- a) All student contracts used with students or prospective students by an approved barber school shall be clearly labeled as a contract and shall include the following information:
  - 1) The name and address of the school;
  - 2) The date the contract is signed;
  - 3) The total cost of the course of instruction including any charges made by the school for tuition, books, materials, supplies, and other expenses;
  - 4) A clear and conspicuous statement that the contract is a legally binding instrument when signed by the student and accepted by the school;
  - 5) A clear and conspicuous statement that if an approved barber school transfers any student contract or interest in the contract to another party, the student shall have the same rights afforded to him or her by the transferee as by the transferor;
  - 6) The contents of the following notice, in at least 10 point bold type:
 

"NOTICE TO THE STUDENT"

"Do not sign this contract before you read it or if it contains any blank spaces.

You are entitled to an exact copy of the contract you sign." i and

7) A clear and concise statement of the school's refund policy.

b) The school shall comply with all applicable requirements of the Retail Installment Sales Act [815 ILCS 405] ~~1115--Rev--Stat--1987--Ch--121~~ ~~1727--para--591--et--seq--~~ in its student contracts.

c) No student contract shall contain a wage assignment provision or a confession of judgment clause.

d) Any provision in a student contract that purports to waive the student's right to assert against the school, or any assignee, any claim or defense he/she may have against the school arising under the contract shall be void.

(Source: Amended at 21 Ill. Reg. NO. 10 effective MAY 2, 1990)



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## Section 1175.320 Recordkeeping - Transcripts

- a) Each school shall provide an official transcript showing the entire course work of each student. The official transcript shall contain the following information:

- 1) School ~~school's~~ name and address;
- 2) School ~~school~~ seal;
- 3) School ~~school~~ license number;
- 4) Signature ~~signature~~ of owner, registrar or director of the school;
- 5) Student's ~~student's~~ name, address, and social security number;
- 6) Actual ~~actual~~ dates student attended;
- 7) Subject ~~subject~~ areas, hours earned, and grades received;
- 8) Any transfer hours citing the name and address of school transferred from, subject areas, hours earned, and grades received;
- 9) Final ~~final~~ examination grades; and
- 10) Graduation ~~graduation~~ date.

- b) The official transcript and school records for each student shall be permanently maintained by the school in the following manner:

- 1) If maintained on the school premises, they shall be maintained in a locked, fire-resistant fireproof cabinet. If official transcripts are maintained on a computer system, history tapes or discs of all official records must be stored in a locked, fire-resistant fireproof cabinet.
- 2) If records cannot be maintained on the premises in locked fire-resistant fireproof cabinets, duplicate student records, including the official transcripts, shall be maintained at a separate location that which shall be made known to the Department. Such records shall be accessible to Department officials for inspection.

- c) A copy of the transcript shall be given to the student upon graduation or other permanent exit from the school provided the student has met all financial obligations of set-forth-in the student contract as set forth in Section 1175.310.

- d) ~~All-existing-schools-shall-submit-a-sample-of-their-official transcript-to-the-Department-within-one-year-of-the-effective-date-of this-part---if-the-Department-has-not-received-the-transcript---the school-will-be-notified-and-will-be-given-60-days-in-which-to-comply before-disciplinary-action-will-be-taken-in--accordance--with--Section 4-7-of-the-Act.~~

(Source: Amended at 21 Ill. Reg. 7677, effective May 29, 1997)

## Section 1175.325 Recordkeeping - Hours Earned

- a) A complete and accurate record of hours of attendance for each student

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must be recorded and maintained by the school.

- b) If a time clock is used, each student shall punch his/her own time card. No student, teacher, or any other person shall punch the time card of another student. If a time clock is not used, there shall be another verifiable method used by the school to record student hours. The records must be in a form that which allows the student to receive a written report of hours earned. This written report of hours earned shall be provided to the student on a monthly basis and shall be placed on a cumulative record by the school.
- c) Credit for hours earned away from school premises shall be awarded only if students are supervised by a licensed instructor. Credit hours for outside study may include workshops, educational programs, films, and demonstrations.
- d) Hours earned away from the school premises shall be recorded on school time forms. These forms shall include: the school seal, name of student, event or program attended, date attended, signature of student, signature of supervising licensed instructor.
- e) Instructors shall review the hours earned by each student monthly. Each month the instructor shall issue a signed monthly report to the student showing the actual number of hours earned by the student.
- f) Time cards may be destroyed upon the student's permanent exit from the school and after all hours earned are recorded on the official transcript.
- g) An hour is not less than 50 nor more than 60 minutes of instruction.
- h) A licensed instructor shall supervise all classroom and practical instruction study. No credit shall be given for unsupervised study.

(Source: Amended at 21 Ill. Reg. 7677, effective May 29, 1997)

## Section 1175.330 Curriculum Requirements - Barber

- a) Each licensed barber school shall provide a curriculum of a minimum of 1500 hours as follows:

a) 150 hours of classroom instruction in general theory which shall be divided into specific subject areas as specified in subsection (b) (2) below.

b) 1350 hours shall be at the discretion of the instructor based on the instructor's evaluation of the individual student's needs. However, the training shall cover, at least, the subject areas set forth in Section 2A-7(4) of the Act, following minimum-subject-areas:

hair-styling  
cutting  
trimming  
facials-and-massage  
hair-coloring-and-bleaching  
permanent-waving-and-chemical-relaxing  
beard-trimming-and-shaving

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~~shop-management-and-merchandising  
pertinent-state-and-local-laws-and-rules  
barber-history~~

- b) ~~All-existing-schools-have-one-year-from-the-effective-date-of-this  
part-to-comply-with-the-requirements-of-this-Section.~~

(Source: Amended at 21 Ill. Reg. 7299.7 effective 7/1/73)

## Section 1175.335 Curriculum Requirements - Barber Teacher

- a) Each licensed barber school that which provides teacher training shall provide a curriculum that which includes a minimum of 1000 hours. This curriculum shall contain the following subject areas:

- 1) Practice of barbering;
- 2) Theory of barbering;
- 3) Methods of teaching teaching; and
- 4) School management Management.

- b) A minimum of 100 hours in each subject area shall be required. The remaining 600 hours shall be at the discretion of the instructor based on the instructor's evaluation of the individual student's needs.

- c) The approved curriculum for a 500 hour Teacher Training Course shall be based upon 3 years of practical experience for a barber and shall consist of a minimum of 50 hours in each of the subject areas in subsection (a) above. The remaining 300 hours shall be at the discretion of the instructor based on the instructor's evaluation of the individual student's needs.

- d) ~~All-existing-schools-have-one-year-from-the-effective-date-of-this  
part-to-comply-with-the-requirements-of-this-Section.~~

(Source: Amended at 21 Ill. Reg. 7299.7 effective 7/1/73)

## Section 1175.340 Final Examination

- a) A school shall require each candidate for graduation to pass a final examination that tests which ~~shall~~ test the student's theoretical and practical knowledge of the curriculum studied.

- b) The practical examination shall test the candidate's skills in the following areas:

- 1) Hair ~~hair~~ cutting;
- 2) Sanitation ~~sanitation~~; and
- 3) Shaving ~~shaving~~.

- c) The examination shall be administered by the uniform application of standard performance criteria established by the school for each skill area. The standard performance criteria for each skill area shall be delineated in the examination records as specified in subsection (h), below.

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- d) A passing score of 75 or greater shall be required on both the theoretical and practical portions of the final examination.  
e) The school shall allow each candidate for graduation at least 3 ~~three~~ attempts to pass the final exam.

- f) The Department may monitor the administration of the final examination:

- 1) As ~~as~~ a result of a complaint received;
- 2) For ~~for~~ random sampling;
- 3) To ~~to~~ collect data; and/or
- 4) When ~~when~~ the failure rate on the licensure examination for school graduates is greater than 25%.

- g) The Department shall maintain records of each school's graduate failure rate on the licensing examination. The records shall reflect only first examination attempts for each graduate. The Department shall review the records on an annual basis to identify those approved schools that which have an average annual failure rate greater than 25%. An average annual failure rate greater than 25% is grounds for school disapproval. The first annual review of the records shall ~~commence one year from the effective date of this part.~~

- h) The school shall maintain records of the final examination for a period of no less than 5 years in the manner prescribed in Section 1175.320 of this Part. These records shall include:

- 1) A ~~a~~ copy of the final examination administered; and
- 2) Each ~~each~~ student's examination grades.

(Source: Amended at 21 Ill. Reg. 7299.7, effective 7/1/73)

## Section 1175.345 Change of Ownership

- a) When the ownership of an approved school changes, the new owner shall, within 5 working days from the date title to the school is transferred, mail to the Department the following:

- 1) A signed and completed school application;
- 2) A floor plan if any expansion is to be done by the new owner;
- 3) A copy of a lease agreement showing at least a 1 year commitment or certification of school site ownership;
- 4) A copy of the student contract that ~~which~~ will be utilized by the new owner;
- 5) A ~~if owner is a corporation~~ a copy of the Articles of Incorporation, if the owner is a corporation;
- 6) A ~~if owner is a partnership~~ a listing of all partners and their addresses, if the owner is a partnership;
- 7) A signed inspection report by the local fire inspection authority within 5 months after application approving the school site;
- 8) A certified financial statement prepared by a licensed public accountant who is not an employee of the school, indicating sufficient finances exist to operate the school for 1 full year;

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~~A-complete-financial-statement-of-assets--liabilities--and-net worth-showing-the-new-owner's-ability-to-operate-the-school-for-1 year?~~

- 9) If a name change is to also occur, the new owner must submit a sample of the new school seal and a photo of the new school sign; and

- 10) The required fee set forth in Section 1175.100.  
b) Once the above items have been received, the Department shall conduct an inspection prior to approval of the change of ownership. Approval will be granted if the requirements of Subpart C have been met.  
c) If the new owner fails to submit a new application, or if the Department does not approve the school, the school shall remain closed until final Department approval is received.

(Source: Amended at 21 Ill. Reg. effective

MAY 24 1993)

## Section 1175.350 Change of Location

- a) When the location of an approved school is changed, the school owner shall submit to the Department the following:

- 1) Written notice to the Department at least 30 days in advance of the school site change;
- 2) A signed and completed school application;
- 3) A floor plan;
- 4) A copy of a lease agreement showing at least a 1 year commitment or certification of ownership of the school site;
- 5) A signed inspection report by the local fire inspection authority within 6 months prior to application approving the site; and
- 6) The required fee set forth in Section 1175.100.

- b) Once the above items have been received, the Department shall inspect the premises to determine compliance with this Part. School operations shall not commence at the new location until the owners have received written notice of approval from the Department. Approval will be granted if the requirements of Subpart C have been met.

- c) If the change of location is due to natural destruction of the original premises, a temporary site may be used to teach theory classes only.

- 1) The temporary site must be inspected prior to its use and must possess light and ventilation, tables and chairs for the number of students in a classroom, and must be clean.
- 2) The temporary site may be used for a period of 2 months. The 2 month period can be extended for good cause. Good cause includes, but is not limited to, unexpected delays in construction, delays in lease arrangements, or delays in equipment delivery.

- d) If the site is not approved, the school shall not solicit new students

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for this location until the school has been approved.

(Source: Amended at 21 Ill. Reg. effective  
MAY 24 1993)

## Section 1175.360 Expansion

- a) Written notice shall be given to the Department 30 days prior to any expansion of an approved school.  
b) When the expansion will result in an off-site classroom location, a completed school application must be submitted along with:

- 1) A detailed floor plan;
- 2) A copy of a lease showing at least a 1 year commitment to the use of the site or certification of ownership of the proposed site;
- 3) A signed fire inspection report from the local fire inspection authority within the last 6 months giving approval for use of the site as an off-site classroom location;
- 4) A statement from the school owner outlining the purpose of the off-site classroom location;
- 5) A listing of any and all additional teachers who will be added to the teaching staff as a result of the expansion;
- 6) A certified financial statement prepared by a licensed public accountant who is not an employee of the school, indicating sufficient finances exist to operate the school for 1 full year; and ~~A-financial-statement-of-assets--liabilities--and-net-worth which-shall-reflect-the-owner's-assets-and-debits--inclusive--of cost-incurred-or-to-be-incurred-as-a-result-of-the-expansion?~~
- 7) The required fee set forth in Section 1175.100.

- 8) An off-site classroom location is defined as a separate classroom which-is located within 5 miles of the main school site that--and which serves to provide adequate space in which to train an overflow of students. A clinic may not be operated at an off-site classroom location. A school may establish only one off-site classroom location. All identifying signs and materials must reflect the name of the main school.

- c) When an on-site expansion is to accommodate an increased enrollment, a completed school application shall be submitted along with:

- 1) A detailed floor plan;
  - 2) A statement from the school owner outlining the purpose of the expansion;
  - 3) A listing of any and all additional teachers who will be added to the teaching staff as a result of the expansion; and
  - 4) The required inspection fee.
- Upon receipt of the above items, the Department shall inspect the expansion site to determine compliance with this Part. The site shall not be used until such inspection has occurred and the owner has received written notification of approval from the Department. Approval will be granted if all of the requirements of Subpart C have



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been met.

(Source: Amended at 21 Ill. Reg. 10 21 73 effective 10 21 73)

## Section 1175.370 Withdrawal of Approval

a) The Department may withdraw, suspend or place on probation, pursuant to 68 Ill. Adm. Code 1110, the approval of a school of barbering when the quality of the program has been affected by any of the following causes:

- 1) Gross or repeated violations of any provisions of the Act or this Part;
- 2) Fraud or dishonesty in furnishing transcripts or documentation for evaluation of the school;
- 3) Failure to meet the criteria for school approval in Section 1175.300;
- 4) Failure to administer the final examination as specified in this Part;
- 5) Failure to maintain final examination grades for each student and a master of the examination administered by the school as specified in this Part;
- 6) Fraud or dishonesty in providing transcripts to students;
- 7) Failure to provide transcripts to students who have fulfilled all obligations under Section 1175.310;
- 8) A finding by the U.S. Office of Education or Illinois State Scholarship Commission that a school has misappropriated or misused grant or loan monies or has aided in obtaining such monies by providing fraudulent or untruthful information; or
- 9) Any other violations of the Act or this Part.

b) Performance Record on Licensing Examination

- 1) When a school's graduates have a 25% or greater failure rate on the licensing examination, Department approval of a school shall be reviewed pursuant to Section 1175.300.
- 2) The performance record of by a school's graduates on the licensing examination as compared with the statewide performance record shall be considered by the Department when reviewing Department approval of a school.
- 3) The Department shall give written notice and a hearing pursuant to 68 Ill. Adm. Code 1110 when Department approval of a school is being reviewed.

(Source: Amended at 21 Ill. Reg. 10 21 73, effective 10 21 73)

## SUBPART D: COSMETOLOGY

## Section 1175.400 Examination - Cosmetology

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a) Eligibility.

- 1) Each applicant must meet the requirements in either Section 3-2(a), (b)7 and (c) or 3-3(a), (b)7 and (c) of the Act prior to filing an application for the Department authorized cosmetology examination.
- 2) An applicant's training must be received from a school of cosmetology approved by the Department that which meets the requirements set forth in Subpart E of this Part.
- b) Application. Each applicant shall file an application for examination, on forms provided by the Department, at least 45 days prior to an examination date. The application shall include:
  - 1) An official transcript showing successful completion of the required training outlined in Section 3-2(c) or 3-3(c) of the Act; official transcripts showing successful completion of remedial training when required by Section 1175.410(c) 1175-415 (e)7--and--(f)7 of this Part and a passing grade on the final examination administered by the school as set forth in Section 1175.540;
  - 2) A request, if desired, to take the written examination in the Spanish language;
  - 3) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on any documents submitted;
  - 4) A complete work history since graduation from cosmetology school; and
  - 5) The required examination fee.

(Source: Amended at 21 Ill. Reg. 10 21 73 effective 10 21 73)

## Section 1175.405 Examination - Cosmetology Teacher

- a) Eligibility. Each applicant must meet the requirements in Section 3-4(a), (b), (c), (d)7 and (e) of the Act prior to filing an application for the cosmetology teacher examination.
- b) Application. Each applicant shall file an application, on forms provided by the Department, at least 45 days prior to an examination date. The application shall include:
  - 1) Proof of any name change (i.e., marriage license, divorce decree, affidavit, or court order) if name is other than that shown on any document submitted;
  - 2) The required examination fee;
  - 3) Either:
    - A) An official transcript from an approved school of cosmetology showing successful completion of 500 hours of teacher training as outlined in Section 1175.535 of this Part and 2 two employment verification forms showing at least 2 years of practical experience as a registered

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Each applicant shall submit to the Department:

- A signed and completed licensure application that which the applicant will receive with the notification of successful completion of the examination;
- Proof of name change (i.e., marriage license, divorce decree, affidavit, or court order) if different from that shown on pre-printed licensure application; and
- The required fee set forth in Section 1175.100.

(Source: Amended at 21 Ill. Reg. 7306, effective MAY 21, 1993)

## Section 1175.420 Endorsement

- An applicant who is currently licensed as a cosmetologist in another jurisdiction and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Department, that which shall include:
  - A certification from the state of original licensure stating:
    - The number of cosmetology training hours received;
    - A brief description of any licensure examination taken and the grades received; and
    - Whether the applicant's file contains any record of disciplinary actions taken or pending;
  - Official transcripts from the school(s) attended by the applicant showing the courses completed and the hours received with the school seal affixed or a verification from the licensing authority of the number of hours required for licensure at the time the applicant was originally licensed;
  - Certification of current licensure if other than original licensure;
  - Two completed Verification of Employment forms showing at least 3 years of lawful practice in another jurisdiction if:
    - The jurisdiction of original licensure does not require a licensing examination or has not provided an examination score; or
    - The applicant is applying under Section 3-8(e)-or-2-4(a) of the Act;
  - A complete work history showing all employment since graduation from cosmetology school to present;
  - Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on submitted attached documents;
  - The required fee set forth in Section 1175.100; and
  - A copy of the licensing act applicable on the date of original licensure showing the requirements for licensure if requested by the Department in the application review. The Department will make such a request if the application materials

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- cosmetologist; or
- An official transcript from an approved school of cosmetology (see Subpart E) showing successful completion of 1000 hours of teacher training as outlined in Section 1175.535 of this Part; 7
- A complete work history since graduation from cosmetology school; and
- A copy of the applicant's current Illinois cosmetology license.

(Source: Amended at 21 Ill. Reg. 7306, effective MAY 21, 1993)

## Section 1175.410 Examination Requirements

- Examinations A--separate--examination shall be administered by the Department or its designated testing service for--each--licensure category and shall cover subject matter as set forth in Section 3-6 of the Act.
- The passing grade on each examination is 75.
- Retakes
  - A cosmetology An applicant who fails to pass a third second examination must submit an official transcript from a licensed an approved cosmetology school showing successful completion of a 250 hour refresher course prior to taking the examination a fourth third time. (in-lieu-of-the-250-hour-refresher-course--an applicant-for-retake-may-submit-proof-of-high-school--diploma--or general-education-diploma--)
  - A cosmetology teacher applicant who fails to pass a third examination must submit an official transcript from a licensed cosmetology school showing successful completion of 80 hours of additional study in teaching methodology and educational psychology prior to taking the examination a fourth time.
  - Upon failing the fourth fifth examination an applicant must submit an official transcript from an approved cosmetology school showing successful repetition of the entire course of training prior to taking the examination a fifth sixth time.
  - For purposes of the examination retakes, the fifth sixth attempt shall count as the first.
  - An applicant shall make a written request for an examination retake at least 45 days in advance of the examination date. Such a request must include the required examination fee and official transcripts when further study is required in accordance with subsections (1), (2) and (3) above. 7306

(Source: Amended at 21 Ill. Reg. 7306, effective MAY 21, 1993)

## Section 1175.415 Application for Licensure

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are incomplete.

- b) An applicant who is currently licensed as a cosmetology teacher in another jurisdiction and who is seeking licensure as a cosmetology teacher in Illinois by endorsement shall file an application, on forms provided by the Department, which shall include:

- 1) A certification from the state of original licensure stating:  
~~A) The number of cosmetology teacher training hours received;~~  
~~A) B) A brief description of any licensure examination taken and the grades received; and,~~  
~~B) Whether the applicant's file contains any record of disciplinary action taken or pending;~~
- 2) Official transcripts from the school(s) attended by the applicant showing the courses completed and the hours received with the school seal affixed or a verification from the licensing authority of the number of hours required for licensure at the time the applicant was originally licensed;
- 3) Certification of current licensure if other than original licensure;
- 4) Either:
  - ~~A) Two Verification of Employment forms shall be submitted by an applicant who completed at least 500 hours of teacher training but less than 1000 hours. A cosmetology teacher applicant shall verify 2 years of lawful practice as a cosmetologist; or~~
  - ~~B) Two completed Verification of Employment forms showing at least 3 years of lawful practice as a cosmetology teacher submitted by an applicant who is applying as a cosmetology teacher on the basis of 3 years of lawful practice;~~

- 5) A complete work history showing all employment since graduation from basic cosmetology school to present;
- 6) Proof of name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on any of the documents submitted;
- 7) ~~A copy of the applicant's current Illinois license as a cosmetologist;~~

- 7) ~~The required fee set forth in Section 1175.1100; and~~
- 8) ~~A copy of the licensing Act act applicable on the date of original licensure showing the requirements for licensure if requested by the Department in the application review. The Department will make such a request if the application materials are incomplete.~~

- c) An applicant for licensure as a cosmetologist who is licensed in another jurisdiction shall be given 300 hours of educational credit for every 12 month period during which he/she was lawfully employed as a cosmetologist. To obtain credit for work experience, the applicant must submit verification of employment on forms provided by the Department in support of the work experience. A certification of licensure from the jurisdiction in which the lawful practice is

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claimed must also be submitted.

- d) An applicant applying for licensure as a cosmetologist or cosmetology teacher on the basis of endorsement who has previously failed the licensing examination in Illinois shall not be approved for licensure on the basis of endorsement unless and until he/she provides verification of successful completion of a substantially equivalent licensure examination and fulfills the requirements set forth in Section 1175.410(c) 1175-220(c). The successful completion of the substantially equivalent examination and fulfillment of applicable requalification requirements must occur after the most recently failed examination attempt in Illinois.

(Source: ~~Amended at~~ 21 Ill. Reg. 829, effective

## Section 1175.425 Renewals

- a) Every license issued under the Act shall expire as follows:
- 1) Cosmetology teacher and cosmetology school licenses shall expire on September 30 of each even numbered year.
  - 2) Cosmetologist licenses shall expire on September 30 of each odd numbered year. A prerenewal period is the twenty-four (24) month period preceding September 30th in the year of renewal.
  - 3) The holder of a license certificate of registration may renew that license such certificate during the month preceding its expiration date.
- b) Applicants for renewal shall:
- 1) Return a completed renewal application.
  - 2) Cosmetologist Cosmetology -- Certify on the renewal application to successful completion of a minimum of 14 20 hours of continuing education from a cosmetology sponsor registered with approved by the Department, in accordance with Section 1175.1200 1175-600 of this Part, within the 2 years prior to the expiration date of the license, if renewing a cosmetology license.
  - 3) For the renewal period of October 17-1907--to-September--307 1909,--each--individual--who--applies--for--renewal--other--than--first--time--renewal--applicants--shall--be--required--to--complete--only--10--hours--of--continuing--education--For--every--renewal--thereafter--the--individual--shall--be--required--to--complete--20--hours--of--continuing--education--
- A) A renewal applicant is not required to comply with continuing education for the first renewal after issuance of original license.
- B) The Department may require additional evidence demonstrating compliance with the CE requirements (i.e., certificate of attendance or certificate of completion). It is the responsibility of each renewal applicant to retain or



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otherwise produce evidence of such compliance. Such evidence shall be required in the context of the Department's random audit.

B) Cosmetologists who also hold a cosmetology teacher license may elect to obtain their continuing education hours from a cosmetology teacher continuing education sponsor approved by the Department in accordance with Section 1175.600 of this Part. These hours if applied toward the fulfillment of subsection 2(A) above, cannot also be used toward the fulfillment of the cosmetology teacher continuing education requirement. In addition, the hours must be earned during the appropriate prerenewal period.

3) Cosmetology Teacher -- Certify on the renewal application to successful completion of a minimum of 10 hours of continuing education from a cosmetology teacher continuing education sponsor registered with approved by the Department, in accordance with Section 1175.1200 1175.600 of this Part, within the 2 years prior to renewal if renewing a cosmetology teacher license.

A) For the renewal period of October 17, 1990, to September 30, 1991, each individual who applies for renewal other than first-time renewal applicants shall be required to complete only five hours of continuing education. For every renewal thereafter, such individual shall be required to complete 10 hours of continuing education.

A) Effective with the 1998 renewal, a cosmetology teacher will be required to complete 24 hours of continuing education from a sponsor approved in accordance with Section 1175.1200. Ten of those hours shall be in the following areas:

- i) Teaching methodology;
- ii) Educational psychology;
- iii) Classroom management; or
- iv) Other teaching related courses.

B) A renewal applicant is not required to comply with continuing education for the first renewal after issuance of original license.

C) The Department may require additional evidence demonstrating compliance with the continuing education requirements (i.e., certificate of attendance or certificate of completion). It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance. Such evidence shall be required in the context of the Department's random audit.

4) Submit the required fee set forth in Section 1175.100.

5) It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee or to renew a license.

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(Source: Amended at 21 Ill. Reg. 1237, effective MAY 27, 1993)

## Section 1175.430 Restoration - Cosmetology

a) A person applying for restoration of a his license as a cosmetologist that which has been expired or been on inactive status for less than 5 years shall submit an application on forms provided by the Department; and:

- 1) Pay pay the required fee set forth in Section 1175.100; and
- 2) Provide provide evidence of successful completion of 14 20 hours of continuing education earned within the 2 years immediately preceding the restoration.

3) If restoring after active military service, the applicant shall submit a copy of the applicant's Honorable Discharge form (DD-214) and the current renewal fee.

b) A person applying for restoration of a his license as a cosmetologist that which has been expired or been on inactive status for 5 years or more shall submit an application on forms provided by the Department along with either:

- 1) All of the following:

A) Verification of employment as a cosmetologist attesting to future practice in another jurisdiction within the 5 years preceding application for restoration;

B) Certification of licensure from the appropriate licensing authority in the jurisdiction of employment stating that said practice was authorized;

C) A complete work history showing all employment since the Illinois license lapsed or was placed on inactive status;

D) A completed Restoration Questionnaire;

E) Evidence of successful completion of 14 20 hours of continuing education earned within the 2 years immediately preceding restoration if restoring a cosmetology license; and

F) The required fee set forth in Section 1175.100; or-

2) A If restoring from active military service a copy of the applicant's DD-214 form must be submitted and the current renewal fee, if restoring from active military service.

c) An applicant for restoration who has not maintained a practice in another jurisdiction shall also submit official transcripts showing successful completion of a 250 hour refresher course from a licensed an approved cosmetology or barber school or passage of the examination set forth in Section 1175.410 within 2 years prior to or within 2 years after application for restoration. A cosmetology applicant who completes this refresher course or takes the examination shall not be required to complete 14 20 hours of continuing education.

d) If an applicant takes and fails the examination, the license will not be restored until such time as he/she has successfully completed the

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examination.

(Source: Amended at 21 Ill. Reg. 7233, effective MAY 2, 1998)

## Section 1175.435 Restoration - Cosmetology Teacher

- a) A person applying for restoration of a his certificate as a licensed registered cosmetology teacher that which has been expired or been on inactive status for less than 5 years shall file an application, on forms provided by the Department. An applicant shall also submit the required fee set forth in Section 1175.100. If restoring after active military service, an applicant shall submit a copy of his/her DD-214 and the current renewal fee.
- b) A person applying for restoration of a license his--certificate as a cosmetology teacher that which has been expired for 5 years or more shall submit an application on forms provided by the Department, along with either:

- 1) All of the following:
  - A) Verification verification of employment as a cosmetology teacher attesting--to--lawful--teaching--practice in another jurisdiction within the 5 years preceding application for restoration;
  - B) 2) Certification of licensure a--certification from the appropriate licensing authority in the jurisdiction of employment stating--that--said--practice--was--authorized;
  - C) Evidence of successful completion of 10 hours of continuing education earned within the 2 years immediately preceding the restoration for those cosmetology teachers restoring licenses prior to September 30, 1998. Effective September 30, 1998, any one restoring a cosmetology teacher license that has been expired for 5 years or more shall submit evidence of 24 hours of continuing education, specified in Section 3-7 of the Act, earned within the 2 years immediately preceding the restoration;
  - D) 3) A complete work history showing all employment since the Illinois teacher license lapsed;
  - E) 4) A completed restoration questionnaire; and
  - 5) a--copy--of--the--applicant's--current--Illinois--cosmetologist--license--and
    - E) 6) The required fee set forth in Section 1175.100; or -
    - 2) 7) If restoring after active military service, a copy of the applicant's DD-214 form; and the current renewal fee.
- c) 8) An applicant for restoration who has not maintained an active teaching practice in another jurisdiction shall submit official transcripts showing successful completion of a 250 hour cosmetology teacher refresher course or passage of the examination set forth in Section 1175.410 within 2 years prior to or within 2 years after

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application for restoration of a license. from--an--approved--cosmetology school--along--with--the--required--fee-- Those who successfully complete a 250 hour refresher course or take the examination shall not be required to complete continuing education before restoring a license.

d) If an applicant takes and fails the examination, the license will not be restored until such time as he/she has successfully completed the examination.

(Source: Amended at 21 Ill. Reg. 7237, effective MAY 2, 1998)

## SUBPART E: COSMETOLOGY SCHOOLS

## Section 1175.500 School Approval Application

- a) An applicant for a cosmetology school license shall submit a completed application to the Department with the following information and documentation:
- 1) A a detailed floor plan consistent with the requirements of Section 1175.505 of this Part;
  - 2) A a copy of a lease showing at least a 1 one year commitment to the use of the school site or certification of ownership of the proposed school site;
  - 3) If if owner is a corporation, a copy of the Articles of Incorporation;
  - 4) If if owner is a partnership, a listing of all partners and their current addresses;
  - 5) A a signed fire inspection report from the local fire inspection authority within 6 months prior to filing an application giving approval for use of the site as a school;
  - 6) A financial statement prepared by a public accountant licensed by the Department pursuant to the Illinois Public Accounting Act who is not an employee of the school, indicating sufficient current finances exist to operate the school for at least 3 months; a completed--financial--statement--of--assets--liabilities--and--net worth--showing--the--owner's--ability--to--operate--the--school--for--at least--3--months--as--evidenced--by--the--owner's--signature--certifying that--the--information--is--true;
  - 7) A a copy of the official student contract to be used by the school which shall be consistent with the requirements of Section 1175.510 of this Part;
  - 8) A a listing of all teachers, including their teacher license numbers, who will be in the school's employ;
  - 9) A a copy of the curricula that which will be followed;
  - 10) A a copy of the school's official transcript; and
  - 11) The required fee set forth in Section 4-1.5(d) of the Act.
- New schools that wish to offer nail technology and/or esthetics in addition to cosmetology shall comply with Section 1175.805 and

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1175.1105.

- c) When the above items have been received, the Department shall inspect the school premises, prior to school approval, to determine compliance with this Subpart. School operations shall not commence nor shall the school in any way solicit student enrollment, until the school has received written notice of approval from the Department. Approval will be granted if all of the requirements of Subpart E have been met.
- c) ~~Cosmetology--schools--shall--only--offer--instruction--in--cosmetology--and--cosmetology--teacher--education.~~

(Source: Amended at 21 Ill. Reg. 107.1105, effective MAY 2, 1997)

## Section 1175.505 Physical Site Requirements

## a) Space Requirements

- 1) A school shall have a minimum of 1,000 square feet of work space for a maximum of 20 students. An additional 30 40 square feet of work space is required for each additional student if attendance on the clinic floor exceeds 20 at any given time.
  - 2) Work space shall include: dispensary and laboratory area. Work rooms, halls, checkrooms, locker space, conference rooms, storage spacer or other areas or facilities for school administration.
  - 3) Separate restrooms ~~A--separate--restroom~~ for males and females shall be provided.
  - 4) ~~Cloak~~ Separate--cloak space separate from the work space shall be provided which may be used both by students and the public.
  - 5) A public waiting area must be provided and separated from the work area.
  - 6) Schools shall provide a student lounge area which shall be separated from the work area.
  - 7) All areas of the school shall be ventilated and lighted.
  - 8) Licensed cosmetology schools will not be required to comply with these requirements. However, if an existing licensed school expands, it will be required to comply with subsection (a) above.
- b) Equipment Requirements - All equipment shall be in working condition and sufficient for the number of students enrolled. Minimum requirements for school equipment are: A--school--shall--have--the following equipment:

- 1) An entrance sign designating the name of the school.
- 2) A school seal.
- 3) A time clock or other equipment necessary for verification of attendance and hours earned.
- 4) Two facial chairs to be placed in an enclosed or screened area. Facial chairs shall only be used for facials.
- 5) One facial supply cabinet containing astringents, lotions, creams, makeup and other necessary supplies for facials.

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- 6) Four shampoo chairs and 4 ~~four~~ shampoo bowls with adequate hot and cold running water.
  - 7) One hood hair dryer for every 5 ~~2~~ clinic stations.
  - 8) Clinic station shall have at least 3 feet per student in the class including electrical outlets, mirror space, wet sanitizer and either a barber chair or styling chair.
  - 9) Desk/table space and a chair for each student in the classroom.
  - 10) Locker space for each student in attendance.
  - 11) Adequate number of covered disposal cans placed at convenient locations.
  - 12) One covered container for soiled towels for each 10 students in clinical work area.
  - 13) Closed cabinets equipped for storing towels. Cabinets must have storage space for 10 ~~10~~ dozen towels per 20 students in clinical work area.
  - 14) One mannequin for each student in attendance.
- c) Sanitary Regulations
- 1) Clean outer garments must be worn at all times. No open toed shoes shall be worn by students.
  - 2) All instruments shall be sanitized before and after use on each patron.
  - 3) Clean towels shall be used for each patron.
  - 4) Shampoo bowls must be sanitized after each use.
  - 5) Hands must be cleansed before and after serving each patron.
  - 6) After serving each patron is served, combs and brushes must be cleansed, then immersed in a disinfectant, then rinsed in water and dried. Combs and brushes shall be kept in a closed container apart from appliances that ~~which~~ have not been disinfected.
  - 7) The head rests of any chair shall be protected with a disposable cover and changed after each patron.
  - 8) Non-disposable head coverings must be laundered and sanitized after each separate use.
  - 9) All powders, lotions, creams, and other cosmetics shall be kept in clean, closed containers. All cosmetics shall be applied by sanitary applicators and removed from the container with a sanitary spatula.
  - 10) No owner, manager, teacher, or school administrator shall knowingly permit any person suffering from a serious communicable disease as defined in 77 Ill. Adm. Code 690 to work on the premises, or knowingly permit a student to serve a patron with a serious communicable disease.
  - 11) No animals or pets, except seeing eye dogs, shall be permitted on school premises.
  - 12) The floors, walls and furniture shall be kept clean at all times.
  - 13) An adequate supply of hot and cold running water shall be available for school operation.
- d) Textbooks/Teaching Materials - Textbooks shall be provided for each student in attendance.



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- e) Teachers - The student/teacher ratio during clinical instruction shall not exceed a 20 to 1 ratio.

## Section 1175.510 Enrollment Agreements and Refund Policies Student-Contracts

- a) All licensed cosmetology schools shall have enrollment agreements that meet the requirements of Section 3 B-12 of the Act.

- b) All licensed cosmetology schools shall implement refund policies pursuant to Section 3B-13 of the Act and this Part.

1) When notice of cancellation is given after the fifth day following enrollment but before the completion of the student's first day of class attendance, the school may retain no more than the application and registration fee, plus the cost of any books or materials which have been provided by the school and retained by the student (Section 3B-13(b)). The cost of books for purposes of refunds is the cost of the books charged to the student, not the cost of the books to the school.

- 2) For students who enroll in and begin classes, tuition adjustment shall be made in the following manner:

PERCENTAGE TIME TO TOTAL TIME OF COURSE	AMOUNT OF TOTAL TUITION OWED TO THE SCHOOL
--	--

0.01% to 4.9%

5% to 9.9%

10% to 14.9%

15% to 24.9%

25% to 49.9%

50% and over

- a) All student-contracts-used-with-students-or-prospective-students-by-an-approved-cosmetology-school-shall-be-clearly-labeled-as-a-contract-and-shall-include-the-following-information:

- 1) The name and address of the school;

- 2) The date the contract is signed;

- 3) The total cost of the course of instruction including any charges made by the school for tuition, books, materials, supplies, and other expenses;

- 4) A clear and conspicuous statement that the contract is a legally binding instrument when signed by the student and accepted by the school;

- 5) A clear and conspicuous statement that if an approved cosmetology school transfers any contract or interest in the contract to another party, the student has the same rights afforded to him or her by the transferee as by the transferor;

- 6) The contents of the following notice, in at least 10-point bold type:

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## "NOTICE TO THE STUDENT"

"Do not sign this contract before you read it or if it contains any blank spaces."

You are entitled to an exact copy of the contract you sign. A clear and concise statement of the school's refund policy.

- b) The school shall comply with all applicable requirements of the Retail Installment Sales Act (Ill. Rev. Stat. 1907, ch. 121-1/2, pars. 501-et seq.) in its student contracts.

- c) No student contract shall contain a wage assignment provision or a confession of judgment clause.

- d) Any provision in a student contract that purports to waive the student's right to assert against the school or any assignee any claim or defense he may have against the school arising under the contract shall be void.

(Source: Amended at 21 Ill. Reg. 120.400, effective MAY 2, 1997)

## Section 1175.520 Recordkeeping - Transcripts

- a) Each school shall provide an official transcript showing the entire course work of each student. The official transcript shall contain the following information:

- 1) School's name and address;

- 2) School's seal;

- 3) School's license number;

- 4) Signature of the owner, registrar or director of the school;

- 5) Student's name, address and social security number;

- 6) Actual dates student attended;

- 7) Subject areas, hours earned, and grades received;

- 8) Any transfer hours citing the name and address of school transferred from, subject areas, hours earned, and grades received;

- 9) Final examination grades; and

- 10) Graduation date.

- b) The official transcript and school records for each student who completed the program shall be permanently maintained by the school in the following manner:

- 1) If maintained on the school premises, they shall be maintained in a locked, fire-resistant fireproof cabinet. If official transcripts are maintained on a computer system, history tapes or discs of all official records must be stored in a locked, fire-resistant fireproof cabinet.

- 2) If records cannot be maintained on the premises in locked fire-resistant fireproof cabinets, duplicate student records, including the official transcripts, shall be maintained at a

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- h) A licensed instructor shall supervise all classroom and practical instruction study. No credit shall be given for unsupervised study.
- i) A cosmetology student is not permitted to serve the public until he/she has successfully completed a combination of the 150 hours of basic training ~~general-theory-and-practical-classroom-instruction~~ requirements specified in Section 1175.530(a)(4) of this Part.

(Source: Amended at 21 Ill. Reg. 7318, effective May 2, 1989)

Section 1175.530 Curriculum Requirements - Cosmetology

a) Each licensed cosmetology school shall provide a minimum of 1500 hours of course instruction as follows:

- 1) Basic Training General-theory - 150 hours of classroom instruction in general theory and practical application shall be provided which shall include a minimum of be-divided-into the following subject areas:

tools and their use-----15-hours  
shampoo-----5-hours  
understanding chemicals and use-----5-hours  
types of hair-----10-hours  
sanitation-----20-hours  
hygiene-----20-hours  
skin diseases and conditions-----20-hours  
anatomy and physiology-----20-hours  
electricity-----5-hours  
ethics-----10-hours  
nail technology  
esthetics

- 2) Practical Chemical Application/Hair Treatment chemical application - 500+00 hours of instruction, which shall be a combination of classroom instruction and hands on experience, shall be provided in the following subject areas:

chemical safety  
permanent waving  
hair coloring, tinting and bleaching  
hair relaxing  
hair and scalp conditioning  
shampooing, toning and rinsing

- 3) Hair Styling/Hair Dressing - 475 +00 hours of instruction in hair styling, which shall be a combination of classroom instruction and hands on experience, shall be provided in the following subject areas:

cutting  
thinning  
shaping  
trimming

application of electrical/mechanical equipment

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separate location that which shall be made known to the Department. Such records shall be accessible to Department officials for inspection.

- c) An official transcript and school records for students who withdrew or dropped out of a program shall be maintained by the school for 7 years from the student's first day of attendance at the school

d) A copy of the transcript shall be given to the student upon graduation or other permanent exit from the school provided the student has met all financial obligations set forth in the enrollment agreement student-contract set forth in Section 3B-12 of the Act 1175.510.

- e) All existing schools shall submit a sample of their official transcript to the Department within one year of the effective date of this Part. If the Department has not received the transcript, the school will be notified and will be given 60 days in which to comply before disciplinary action will be taken in accordance with Section 4-7 of the Act.

(Source: Amended at 21 Ill. Reg. 7317, effective May 2, 1989)

Section 1175.525 Recordkeeping - Hours Earned

- a) A complete and accurate record of hours of attendance for each student must be recorded and maintained by the school.
- b) If a time clock is used, each student shall punch his/her own time card. No student, teacher or any other person shall punch the time card of another student. If a time clock is not used, there shall be another verifiable method used by the school to record student hours. The records must be in a form that which allows the student to receive a written report of hours earned. This report of hours earned shall be provided to the student on a monthly basis.
- c) Credit for hours earned away from the school premises shall be awarded only if students are supervised by a licensed instructor or by a licensed cosmetologist in the case of an internship. Credit hours for outside study may include workshops, educational programs, films, and demonstrations and internship training in a registered salon.
- d) Hours earned away from the school premises shall be recorded on school time forms. These forms shall include: the school seal, name of student, event or program attended, date attended, signature of student, signature of supervising licensed instructor.
- e) Instructors shall review the hours earned by each student monthly. Each month the instructor shall issue a signed monthly report to the student showing the actual number of hours earned by the student.
- f) Time cards may be destroyed upon the student's permanent exit from the school and after all hours earned are recorded on the official transcript.
- g) An hour is not less than 50 nor more than 60 minutes of instruction.

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curling  
hair treatments  
marcelling  
d) Shop Management, Sanitation management and Interpersonal  
Relations---relations - 200 100 hours of classroom  
instruction shall be provided in the following subject areas:

- labor law
  - workers' compensation
  - client relations
  - bookkeeping
  - marketing and merchandising
  - emergency first aid
  - right-to-know laws
  - pertinent State and local laws and rules
  - business ethics
  - sanitation
  - electrical devices
  - personal grooming and hygiene
- e) 5) Esthetics - 85 -Facials-and-massage---50 hours of instruction shall be provided.
- f) Nail Technology - 55 hours of instruction shall be provided
- g) Electives - 35 hours
- 6) Remaining---required---hours---the---remaining---100---hours---of instruction-shall-consist-of-coordinated-classroom-and-practical experience-as-follows:
- A) 450-hours-of-hair-dressing-(thinning-trimming-shaping blow-drying-all-methods-of-curling-all-types-of-hair--and hair-attachments-marcelling)
  - B) 400-hours-of-hair-treatment--(shampooing-scalp-and-hair conditioning-hair-coloring-and-tinting-toning-rinsing bleaching-permanent-waving-and-relaxing-chemical-safety-skin-diseases-and-conditions)
  - C) 100-hours-of-sanitation-safety--and-shop---management (personal-grooming--and-hygiene--first-aid--electrical devices---salesmanship---management---math---bookkeeping business-ethics--labor-law--workers--compensation--laws chemical-safety-and-right-to-know)

50-Hours-of-related-electives-

h) Internship program is an optional part of the curriculum. Each licensed cosmetology school may choose to set up an internship program and shall follow the guidelines set forth below.

- 1) An internship program:
- A) May be substituted for 150 hours of the 1500 hours as set forth in this Section.
- B) May be part of the curriculum of a licensed cosmetology school and shall be an organized preplanned training program designed to allow a student to learn hair dressing, sanitation, safety and shop management, hair treatment, nail

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technology and esthetics under the direct supervision of a licensed cosmetologist in a registered salon.

2) A student in the internship program:

- A) May participate in an internship program only after completing 750 hours of training with a minimum average grade of 80. A school may, however, set the average grade higher and set other standards that a student must meet to participate in the internship program.
  - B) May not spend more than 150 hours in an internship program.
  - C) May not be paid while participating in this internship program as it is a part of the cosmetology curriculum of the school.
  - D) May work a maximum of 8 hours a day and shall be required to spend 1 day a week at the school.
  - E) Shall be under the direct on site supervision of a licensed cosmetologist. Only 1 student shall be supervised by 1 licensed cosmetologist.
- 3) A licensed cosmetology school shall state clearly in the student contract that the school offers an internship program.
- 4) The licensed cosmetology school shall enter into a contract with the student, the registered salon and licensed cosmetologist. The contract shall contain all the provisions set forth in subsection (h)(2) of this Section and any other requirements of the internship established by the school. The contract shall be signed by the student, the school and the licensed cosmetologist. Any party to the contract may terminate the contract at any time.
- i) b) All existing schools have until July 1, 1998, one-year-from-the effective-date-of-this-Part to comply with the requirements of this Section.

(Source: Amended at 21 Ill. Reg. 727, effective 11/24/93)

## Section 1175.535 Curriculum Requirements - Cosmetology Teacher

a) An approved school that which intends to provide teacher training must utilize a teacher curriculum that which includes a minimum of 1000 hours as follows:

- 1) 500 hours of Post-Graduate School Training that which includes all subjects in the basic cosmetology curriculum in Section 1175.530 including theory and practice. Presentation of material must include the concepts that which are intended to be taught and the skills to be acquired during the various phases of basic education.
- 2) 20 hours of Educational Psychology that which shall include, but not be limited to, topics in educational objectives, student characteristics and development, the learning process and an evaluation of learning that which relates to teaching. This



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course--shall-be-presented-by--a-person-qualified-to--teach educational--psychology--at--the--college--level--or--a--licensed cosmetology--teacher--who--has--completed--a--course-of--instruction which-included-the-topics--set-forth--above--or--an-equivalent program. These hours shall be waived on behalf of cosmetology teacher students who have completed a course in Educational Psychology at an accredited college or university within the five years--immediately-preceding-admission-to-the-cosmetology-teacher program.

3) 20 hours of Teaching Methods (Theory) that which shall include, but not be limited to, topics in individual differences in learning, lesson planning and design, lesson delivery, assessment of learning performance, classroom management, student motivation and classroom climate. This--course--shall-be-presented-by--a person--qualified--to--instruct--in--Teaching-Methods--Secondary level--at--a--college--or--university--or--a--licensed--cosmetology teacher--who--has--completed--a--course-of--instruction--which-included topics--set-forth--above--or--an-equivalent-program. These hours shall be waived on behalf of cosmetology teacher students who have completed a course in Teaching Methods - Secondary level at an accredited college or university within the five--years immediately--preceding--admission--to--the--cosmetology--teacher program.

4) 150 hours of Application of Teaching Methods that which include includes: preparation and organization of subject matter to be presented on a unit by unit basis; and presentation of subject matter through application of varied methods (lecture, demonstration, testing and assignments). Presentations must provide teaching objectives to be accomplished and correlate theoretical with practical application.

5) 50 hours of Business Methods that which include inventory, recordkeeping--inventory--record-keeping, interviewing, supplies, the Illinois Barber, Cosmetology, and Esthetics, and Nail Technology Act of 1985 and 68 Ill. Adm. Code 1175.

6) 260 hours of Student Teaching under the on-site direct supervision of an Illinois licensed teacher. The student teacher shall present theoretical and practical demonstrations to students in the basic curriculum.

b) The approved curriculum for a 500 hour Teacher Training Course shall be based upon 2 years of practical experience and shall consist of the Teacher Training Curriculum outlined in subsection (a) of this Section 1175-595 with the exception of the 500 hours of Post-Graduate Training.

c) All--existing--schools--have--one-year--from--the-effective-date-of-this Part-to-comply-with-the-requirements-set-forth-in-this-Section.

(Source: Amended at 21 Ill. Reg. 727, effective MAY 24, 1987)

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## Section 1175.540 Final Examination

a) A school shall require each candidate for graduation to pass a final examination that which shall test the student's theoretical and practical knowledge of the curriculum studied.

b) The practical examination shall test the candidate's skills in the following areas:

- 1) Hair hair cutting
- 2) Thermal thermal curl and blow drying;
- 3) Chemical chemical permanent waving and relaxing; and
- 4) Hair hair coloring and lightening;
- 5) Esthetics; and
- 6) Nail technology.

c) The examination shall be administered by the uniform application of standard performance criteria established by the school for each skill area. The standard performance criteria for each skill area shall be delineated in the examination records as specified in subsection (h), below.

d) A passing score of 75 or greater shall be required on both the theoretical and practical portions of the final examination.

e) The school shall allow each candidate for graduation at least 3 three attempts to pass the final exam.

f) The Department may monitor the administration of the final examination:

- 1) As as a result of a complaint received;
- 2) For for random sampling;
- 3) To to collect data; and/or
- 4) When when the failure rate on the licensure examination for school graduates is greater than 25%.

g) The Department shall maintain records of each school's graduate failure rate on the licensing examination. The records shall reflect only first examination attempts for each graduate. The examination results shall not count toward the failure rate on the licensing examination if the student transfers to the school from a closed school with one-half or more of the required hours for graduation. The Department shall review the records on an annual basis to identify those approved schools which have an average annual failure rate greater than 25%. An average annual failure rate greater than 25% is grounds for school disapproval. The first annual review of the records shall commence one year from the effective date of this Part. The school shall maintain records of the final examination for a period of no less than 5 years in the manner prescribed in Section 1175.520 of this Part. These records shall include:

- 1) A copy of the final examination administered; and
- 2) Each each student's examination grades.

(Source: Amended at 21 Ill. Reg. 727, effective MAY 24, 1987)

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## Section 1175.545 Change of Ownership

- a) When the ownership of an approved school changes, the new owner shall, within 5 working days from the date title to the school is transferred, mail to the Department the following:
- 1) An affidavit stating that the contract is contingent on a certificate being issued to the new owner. If this is not provided, the school must close on the date of the transfer and remain closed until a new certificate is issued;
  - 2) A signed and completed school application;
  - 3) A floor plan drawn to scale if any expansion is to be done by the new owner;
  - 4) A copy of a lease agreement showing at least a 1 year commitment or certification of school site ownership;
  - 5) A copy of the enrollment agreement that ~~student--contract--which~~ will be utilized by the new owner;
  - 6) If owner is a corporation, a copy of the Articles of Incorporation;
  - 7) If owner is a partnership, a listing of all partners and their addresses;
  - 8) A signed inspection report by the local fire inspection authority within 6 months prior to application approving the school site;
  - 9) A financial statement prepared by a public accountant licensed by the Department pursuant to the Illinois Public Accounting Act who is not an employee of the school, indicating sufficient current finances exist to operate the school for at least 3 months; ~~A complete financial statement of assets, liabilities and net worth showing the new owner's ability to operate the school for 3 months as evidenced by the owner's signature certifying that the information is true.~~
  - 10) If a name change is to also occur, the new owner must submit a sample of the new school seal and a photo of the new school sign; and
  - 11) The required fee set forth in Section 1175.100.
- b) Once the above items have been received, the Department shall conduct an inspection prior to approval of the change ownership. Approval will be granted if all of the requirements of Subpart E have been met.

(Source: Amended at 21 Ill. Reg. 615.0/1, effective 8/1/01)

## Section 1175.550 Change of Location

- a) When the location of an approved school is changed, the school owner shall submit to the Department the following:
- 1) Written notice to the Department at least 30 days in advance of the school site change;
  - 2) A signed and completed school application;

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- 3) A floor plan;
  - 4) A copy of a lease agreement showing at least a 1 one year commitment or certification of ownership of school site;
  - 5) A signed inspection report by the local fire inspection authority within 6 months prior to application approving the site; and
  - 6) The required fee set forth in Section 1175.100.
- b) Once the above items have been received, the Department shall inspect the premises to determine compliance with this Part. School operations shall not commence at the new location nor may the school in any way solicit student enrollment until the owners have received written notice of approval from the Department. Approval will be granted if all of the requirements of Subpart E have been met.
- c) If the change of location is due to natural destruction of the original premises, a temporary site may be used to teach theory classes only.
- 1) The temporary site must be inspected prior to its use and must possess light and ventilation, tables and chairs for the number of students in a classroom, and must be clean.
  - 2) The temporary site may be used for a period of 2 months. The 2 month period can be extended for good cause. Good cause includes, but is not limited to, unexpected delays in construction, delays in lease arrangements, or delays in equipment delivery.

(Source: Amended at 21 Ill. Reg. 615.0/1, effective 8/1/01)

## Section 1175.560 Expansion

- a) Written notice shall be given to the Department 30 days prior to any expansion of an approved school.
- b) When the expansion will result in an off-site classroom location, a completed school application must be submitted along with:
  - 1) A detailed floor plan drawn to scale;
  - 2) A copy of a lease showing at least a 1 year commitment to the use of the site or certification of ownership of the proposed site;
  - 3) A signed fire inspection report from a local fire authority within 6 months prior to application giving approval for use of the site as a classroom location;
  - 4) A statement from the school owner outlining the purpose of the classroom location;
  - 5) A listing of any and all additional teachers who will be added to the teaching staff as a result of the expansion;
  - 6) A financial statement prepared by a public accountant licensed by the Department pursuant to the Illinois Public Accounting Act who is not an employee of the school, indicating sufficient finances exist to operate the school for at least 3 months; and ~~A financial statement of assets, liabilities and net worth--which~~

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shall reflect the owner's assets and debts inclusive of costs incurred or to be incurred as a result of the expansion;

- 8) The required fee set forth in Section 1175.100.
- 9) An off-site classroom location is defined as a separate classroom that which is located within 5 miles of the main school site that serves to provide adequate space in which to train an overflow of students. A clinic may not be operated at an off-site classroom location. A school may establish only one off-site classroom location. All identifying signs and materials must reflect the name of the main school.

- c) When an on-site expansion is to accommodate an increased enrollment, a completed school application shall be submitted along with:

- 1) A detailed floor plan;
- 2) A statement from the school owner outlining the purpose of the expansion;
- 3) A listing of any and all additional teachers who will be added to the teaching staff as a result of the expansion; and
- 4) The required inspection fee.

- d) Upon receipt of the above items, the Department shall inspect the expansion site to determine compliance with this Part. The site shall not be used until such inspection has occurred and the owner has received written notification of approval from the Department. Approval will be granted if all of the requirements of Subpart E have been met.

(Source: Amended at 21 Ill. Reg. 787, effective 8/1/84)

## Section 1175.570 Withdrawal of Approval

- a) The Department may withdraw, suspend or place on probation, pursuant to 68 Ill. Adm. Code 1110, the approval of a school of cosmetology when the quality of the program has been affected by any of the following causes:

- 1) Gross or repeated violations of any provisions of the Act or this Part;
- 2) Fraud or dishonesty in furnishing transcripts or documentation for evaluation of the school;
- 3) Failure to meet the criteria for school approval in Section 1175.500;
- 4) Failure to administer the final examination as specified in this Part;
- 5) Failure to maintain final examination grades for each student and a master of the examination administered as specified in this Part;
- 6) Fraud or dishonesty in providing transcripts to students who have fulfilled all obligations under Section 1175.510;
- 7) Failure to provide transcripts to students.

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- 8) A finding by the U.S. Office of Education or Illinois State Scholarship Commission that a school has misappropriated or misused grant or loan monies or has aided in obtaining such monies by providing fraudulent or untruthful information; or
- 9) Any other violations of the Act and this Part.

## b) Performance Record on Licensing Examination

- 1) When a school's graduates have 25% or greater failure rate on the licensing examination, Department approval of a school shall be reviewed pursuant to Section 1175.500.
- 2) The performance record of a school's graduates on the licensing examination as compared with the statewide performance record shall be considered by the Department when reviewing Department approval of a school.

- 3) The Department shall give written notice and a hearing pursuant to 68 Ill. Adm. Code 1110 when Department approval of a school is being reviewed.

(Source: Amended at 21 Ill. Reg. 787, effective 8/1/84)

## SUBPART F: CONTINUING EDUCATION - COSMETOLOGY/COSMETOLOGY TEACHER

## Section 1175.600 Sponsor Approval (Repealed)

- a) Sponsor as used in this Section shall mean a person, firm, association, corporation or any other group which has been approved and authorized by the Department to coordinate and present continuing education (CE) courses or programs for cosmetologists or cosmetology teachers or both.
- b) A cosmetology continuing education sponsor application shall be filed with the Department to be approved as a cosmetology continuing education sponsor. A cosmetology teacher continuing education sponsor application shall be filed with the Department to be approved as a cosmetology teacher continuing education sponsor. All sponsors shall certify that they will comply with all sponsor CE requirements set forth in Subpart F.
- c) A cosmetology sponsor shall provide CE courses and programs which are organized programs of formal learning which contribute directly to a cosmetologist's knowledge and ability to perform his duties as a cosmetologist. A continuing education program or course must meet the following minimum requirements:
- 1) A cosmetology course or program shall include as its subject matter one or more of the following:
    - A) Advanced product chemistry and chemical interaction;
    - B) The use of machines for care of the face and skin;
    - C) Sanitary procedures;
    - D) Updated use of styling implements as they relate to applicable services under this Act.



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- B) Advanced knowledge of the anatomy of the skin, scalp, and hair;
- F) Human relations/communications skills; and
- G) Management and marketing.
- 2) All programs shall be developed and presented by persons with education, training and/or practical experience in the subject matter to be presented.
- 3) All programs must include a student evaluation of both the instructor and the course.
- 4) All programs shall specify the course objectives, content, prerequisites, requirements, and the number of CE hours to be earned. Such information shall be specified in all promotional materials.
- d) A cosmetology teacher CE sponsor shall provide CE courses and programs which are organized, programs of formal learning which contribute directly to a cosmetology teacher's knowledge and ability to perform his duties as a cosmetology teacher. A continuing education program or course must meet the following minimum requirements:
- 1) A course or program shall include as its subject matter one or more of the following:
- A) Educational Psychology;
  - B) Teaching techniques as they apply to the use of machines for care of the face and skin;
  - C) Teaching Methods;
  - D) Business Methods;
  - E) Human Relations;
  - F) Counseling Techniques;
  - G) Student Evaluation Skills;
  - H) State and Federal laws pertinent to Cosmetology;
  - I) Tests and Measurements; and
  - J) Written and Verbal Communication Skills.
- 2) All programs shall be developed and presented by persons with education, training and/or practical experience in the subject matter to be presented.
- 3) All programs must include a student evaluation of both the instructor and the course.
- 4) All programs shall specify the course objectives, content, prerequisites, requirements, and the number of CE hours to be earned. Such information shall be specified in all promotional materials.
- e) All sponsors shall verify attendance at each CE course or program. A record of attendance shall be kept for no less than 5 years. Sponsors shall give each successful participant a record of completion at the end of the course or program. All records shall include the following information: name, address, identification number of participant, course title, CE hours awarded, date of course, name of instructor, and name of sponsor.

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(Source: Repealed at 21 Ill. Reg. 727.1, effective MAY 24, 1997.)

## Section 1175.605 Department Supervision (Repealed)

- a) The Department shall audit sponsors and their programs upon written complaint or allegation that the sponsor has not fully complied with the requirements of this Subpart.
- b) A sponsor's approval shall be terminated if the sponsor fails to provide information to the Department to ascertain compliance with this Subpart.
- c) Upon failure of any sponsor to comply with the requirements of this subpart, the Department shall issue a written notification to the sponsor that it must remedy its non-compliance prior to providing further approved courses.

(Source: Repealed at 21 Ill. Reg. 727.1, effective MAY 24, 1997.)

## Section 1175.610 Credit Hours (Repealed)

- a) An approved CE program hour shall include at a minimum 50 minutes of actual class time exclusive of time devoted by participants to pre-class or post-class preparation.
- b) Courses completed at a university or college shall receive 15 CE credit hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.
- c) A licensee (cosmetologist or cosmetology teacher) who serves as an instructor, speaker or discussion leader of an approved course shall be allowed CE credit for actual presentation time. Preparation time shall receive 1 hour credit for each 2 hours of actual presentation time. Preparation time for repetitions presentations of the same course shall not receive credit. No more than 10 hours of credit can be earned under this Section during any renewal period.
- d) Credit will be awarded for successful completion of courses taken pursuant to continuing education requirements in another state. Credit hours will be awarded as stated in subsections (a)-(c) above.

(Source: Repealed at 21 Ill. Reg. 727.1, effective MAY 24, 1997.)

## Section 1175.615 Waiver of Continuing Education Requirements (Repealed)

- a) Any renewal applicant seeking renewal of his license or certificate without having fully complied with these CE requirements shall file with the Department a renewal application along with the required renewal fee, a statement setting forth the facts concerning such

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noncompliance--a--request--for--waiver--of--the--EB--requirements--on--the--basis--of--such--facts--and--if--desired--a--request--for--an--interview--before--the--Committee--if--the--Department--finds--from--such--statement--or--any--other--evidence--submitted--or--upon--a--recommendation--of--the--Committee--that--good--cause--has--been--shown--for--granting--a--waiver--of--the--EB--requirements--or--any--part--thereof--the--Department--shall--waive--enforcement--of--such--requirements--for--the--renewal--period--for--which--the--applicant--has--applied.

b) Good cause shall be defined as an inability to devote sufficient hours to fulfilling the EB requirements during the applicable pre-renewal period because of:

1) full-time service in the armed forces of the United States--of--America--during--a--substantial--part--of--such--period;

2) an incapacitating illness--documented--by--a--currently--licensed--physician--or

3) hardship as defined in Section 3-7 of the Act;

A) the license resides in a locality where it is demonstrated that the absence of opportunities for such education would interfere with the ability of the licensee to provide service to the public;

B) that to comply with the continuing education requirements would cause a substantial financial hardship--on--the--licensee;

c) If an interview is requested at the time the request for such waiver is filed with the Department, the renewal applicant shall be given at least 20 days written notice of the date, time and place of such interview by certified mail, return receipt requested.

(Source: Repealed at 21 Ill. Reg. 102.102, effective 11/24/84.)

## SUBPART G: ESTHETICS

## Section 1175.700 Examination - Esthetics

a) Eligibility. Each applicant must meet the following requirements:

1) Be at least 16 years of age.

2) Pursuant pursuant to Section 3A-2 of the Act:

A) Be a high school graduate or its equivalent or be beyond the age of compulsory school attendance; and

B) Graduate graduation from an esthetics school approved by the Department or a cosmetology school approved by the Department to teach esthetics in accordance with Subpart H of this Part, which includes 750 hours in the study of esthetics extending over a period of not less than 18 weeks 5-months nor more than 4 consecutive 2 years.

b) Application. Each applicant shall file an application for examination, on forms provided by the Department, at least 45 days

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prior to an examination date. The application shall include:

- 1) An official transcript showing successful completion of the required training outlined in subsection (a) above and a passing grade on the final examination administered by the school as set forth in Section 1175.845 1175.848; or official transcripts showing successful completion of remedial training (125 hour refresher course) when required by Section 3A-2 of the Act;
- 2) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if different than shown on the supporting documents;
- 3) A complete work history since graduation from an esthetics school or a cosmetology school approved to teach esthetics; and
- 4) The required fee set forth in Section 1175.100.

(Source: Amended at 21 Ill. Reg. 102.102, effective 11/24/84.)

## Section 1175.705 Examination - Esthetics Teacher

a) Eligibility. Each applicant must meet the following requirements pursuant to Section 3A-3 of the Act prior to filing an application for the esthetics teacher examination.

1) Be at least 18 years of age;

2) Be a high school graduate graduation--from--high--school or its equivalent;

3) Hold hold a current license certificate-of-registration as a registered cosmetologist or esthetician; and

4) Either:

A) Complete completion-of 500 hours of teacher training in an approved cosmetology or esthetics school and had 2 years of experience as a licensed cosmetologist or esthetician within 5 years preceding application; or

B) Complete 750 completion-of-1000 hours of teacher training in a licensed an-approved cosmetology school approved to teach esthetics or in an esthetics school.

b) Application. Each applicant shall file an application, on forms provided by the Department, at least 45 days prior to an examination date. The application shall include:

1) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if different than shown on supporting documents;

2) The required fee set forth in Section 1175.100;

3) Either:

A) An official transcript from an approved school of esthetics or cosmetology showing successful completion of 500 hours of teacher training as outlined in Section 1175.535 or 1175.840 1175.895 of this Part and 2 two employment verification forms showing at least 2 years of the last 5 years preceding

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the examination of practical experience as a licensed registered esthetician or cosmetologist; or

- B) An official transcript from an approved school of esthetics or cosmetology (see Subpart H or Subpart E) showing successful completion of 750 to 1000 hours of teacher training as outlined in Section 1175.535 or 1175.840 to 1175.895 of this Part;

- 4) A complete work history since graduation from an esthetics or cosmetology school; and
- 5) A copy of the applicant's current Illinois esthetician or cosmetology license;

- 6) For any person who holds Persons--who--hold a cosmetologist's license, shall be required to submit a certificate of competency in the use of machines (~~electric~~---heating---mask, steamer, ~~disencrustation decrustation~~ machine, etc.) utilized in the practice of esthetics. Such certificate shall be from the school of cosmetology or esthetics or the manufacturer of such machines used in esthetics; and

- 7) If licensed in another state, a certification of licensure from the state of original licensure and from the state of current licensure or of most recent practice.

(Source: Amended at 21 Ill. Reg. 602.70 F, effective May 24, 1999)

## Section 1175.710 Examination Requirements

- a) A separate examination shall be administered by the Department or its designated testing service for estheticians and esthetics teachers and shall cover subject matter as set forth in Section 3A-5 of the Act.
- b) The passing grade on each examination is 75.
- c) Retakes

- 1) Esthetician. An applicant who fails to pass a third second examination to become a licensed esthetician must submit an official transcript from a cosmetology school approved to teach esthetics or an esthetics school approved by the Department showing successful completion of a 125 hour refresher course prior to taking the examination a fourth time.

- 2) Esthetics Teacher. An applicant who fails to pass a third examination to become a licensed esthetics teacher must submit an official transcript from a licensed esthetics or cosmetology school approved to instruct esthetic teachers showing successful completion of an 80 hour refresher course prior to taking the examination a fourth time.

- 3) 2 An applicant upon failing the fourth fifth examination to become a licensed esthetician or esthetics teacher, must submit an official transcript from an approved esthetics or cosmetology school showing successful repetition of the entire course of

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esthetics training prior to taking the examination a fifth sixth time.

- 4) 3 For purposes of the examination retakes, the fifth sixth attempt shall count as the first.

- 5) 4 An applicant shall make a written request for an examination retake at least 45 days in advance of the examination date. Such a request must include the required examination fee and official transcripts when further study is required in accordance with subsections (c)(1) and (2) above.

(Source: Amended at 21 Ill. Reg. 602.70 F, effective May 24, 1999)

## Section 1175.715 Application for Licensure

- a) Applicants for licensure based on examination shall submit to the Department:

- 1) A signed and completed licensure application which the applicant will receive with the notification of successful completion of the examination;

- 2) Proof of name change (i.e., marriage license, divorce decree, affidavit or court order) if different from that shown on pre-printed licensure application; and

- 3) The required fee set forth in Section 1175.100.

- b) Cosmetology teachers licensed in Illinois who are applying for an esthetics teacher's license will not be required to take the examination set forth in Section 1175.705. An application shall be submitted to the Department which includes:

- 1) A copy of their current ~~cosmetology--and~~ cosmetology teacher license;

- 2) A complete work history since completion of teacher training;

- 3) A certificate of competency in the use of machines (~~electric~~ heating---mask, steamer, ~~disencrustation decrustation~~ machine, etc.) utilized in the practice of esthetics. Such certificate shall be from the school of cosmetology or esthetics or the manufacturer of such machines used in esthetics; and

- 4) The required fee set forth in Section 1175.100.

- c) A licensed cosmetology teacher who will be teaching esthetics in an approved esthetics school or in a cosmetology school approved to teach esthetics, however, will be required to submit a written request to the Department notifying it of his/her their intent to teach esthetics.

- 1) The written request shall be accompanied by:

- A) 1 A copy of his/her their cosmetology teacher license; and

- B) 2 A certificate of competency in the use of machines (~~electric~~---heating---mask, steamer, ~~disencrustation decrustation~~ machine, etc.) utilized in the practice of esthetics. Such certificate shall be from the school of



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cosmetology or esthetics or the manufacturer of such machines used in esthetics.

2) 3 The Department shall issue a letter of authority to the individual that he/she is they are approved to teach esthetics in Illinois.

d) Nothing in this Part requires a licensed cosmetologist to obtain a license to practice esthetics or a licensed cosmetology teacher to obtain a license to practice or to teach esthetics.

(Source: Amended at 21 Ill. Reg. 12 30, effective MAY 20 2006)

## Section 1175.720 Endorsement

a) An applicant who is currently licensed as an esthetician in another jurisdiction and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Department, which shall include:

1) A certification from the jurisdiction of original licensure stating:

A) The number-of-esthetics-training-hours-received;

B) A brief description of any licensure examination taken and the grades received; and

C) Whether the applicant's file contains any record of disciplinary actions taken or pending;

2) Official transcripts from the school(s) attended by the applicant showing the courses completed and the hours received with the school seal affixed;

3) Certification of current licensure if other than original licensure;

4) A complete work history showing all employment since graduation from esthetics school to present;

5) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on attached documents;

6) The required fee set forth in Section 1175.100; and

7) A copy of the licensing Act act applicable on the date of original licensure showing the requirements for licensure if requested by the Department in the application review. The Department will make such a request if the application materials are incomplete.

b) An applicant who is currently licensed as an esthetics teacher in another jurisdiction and who is seeking licensure as an esthetics teacher in Illinois by endorsement shall file an application, on forms provided by the Department, which shall include:

1) A certification from the jurisdiction of original licensure stating:

A) the number-of-esthetics-teacher-training-hours-received;

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A) B A brief description of any licensure examination taken and the grades received; and

B) E Whether the applicant's file contains any record of disciplinary action taken or pending;

2) Official transcripts from the school(s) attended by the applicant showing the courses completed and the hours received with the school seal affixed;

3) Certification of current licensure if other than original licensure;

4) Either:

A) Two Verification of Employment forms shall be submitted by an the applicant who completed at least 500 hours of teacher training but less than 1000 hours. An esthetics teacher applicant shall submit cause verification of 2 two years of lawful practice as an esthetician; or to be submitted;

B) Two Verification verification of Employment forms submitted 3 years of lawful practice in another jurisdiction submitted by an applicant who is applying as an esthetics teacher on the basis of 3 years of lawful practice;

5) A complete work history showing all employment since graduation from basic esthetics school to present;

6) Proof of name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on any of the documents submitted;

7) A copy of the applicant's current Illinois esthetics or cosmetologist license;

7) 8 The required fee set forth in Section 1175.100; and

8) 9 A copy of the licensing Act act applicable on the date of original licensure showing the requirements for licensure if requested by the Department in the application review. The Department will make such a request if the application materials are incomplete.

c) An applicant for licensure as an esthetician who is licensed in another jurisdiction shall be given 300 hours of educational credit for every 12 month period during which he/she was lawfully employed as an esthetician. To obtain credit for work experience, the applicant must submit verification of employment in support of the work experience on forms provided by the Department. A certification of licensure from the jurisdiction in which the lawful practice is claimed must also be submitted.

d) An applicant applying for licensure as an esthetician or esthetics teacher on the basis of endorsement who has previously failed the licensing examination in Illinois shall not be approved for licensure on the basis of endorsement unless and until he/she provides verification of successful completion of a substantially equivalent licensure examination and fulfills the requirements set forth in Section 1175.710(c). The successful completion of the substantially equivalent examination and fulfillment of applicable regulation

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requirements must occur after the most recently failed examination attempt in Illinois.

(Source: Amended at 21 Ill. Reg. 601.100, effective 1/1/99.)

## Section 1175.725 Renewals

- a) Every license issued under the Act shall expire as follows:
- 1) Esthetics teacher and esthetics school licenses shall expire on September 30 of each even numbered year.
  - 2) Esthetician licenses shall expire on September 30 of each odd numbered year.
  - 3) The holder of a license certificate of registration may renew the license such--certificate during the month preceding its expiration date.

- b) Applicants for renewal shall:

- 1) Return a completed renewal application.
- 2) Esthetician. Certify on the renewal application to successful completion of a minimum of 10 hours of continuing education from an esthetics continuing education sponsor approved by the Department, in accordance with Section 1175.1200 of this Part, within the 2 years prior to the expiration date of the license:

A) ~~For--the--September--30--1993--renewal--each--individual--who applies--for--renewal--of--their--esthetics--license--other--than first--time--renewal--applicants--will--be--required--to--complete 10--hours--of--continuing--education--in--accordance--with--Subpart~~

~~I--~~  
A) B) A renewal applicant is not required to comply with continuing education for the first renewal after issuance of original license.

B) ~~E~~ The Department may require additional evidence demonstrating compliance with the CE requirements (i.e., certificate of attendance or certificate of completion). It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance. Such evidence shall be required in the context of the Department's random audit.

B) ~~E~~ ~~Estheticians who also hold an esthetics teacher license may elect--to--obtain--their--continuing--education--hours--from--an esthetics--teacher--continuing--education--sponsor--approved--by the--Department--in--accordance--with--Section--1175.900--of--this Part--these--hours--if--applied--toward--the--fulfillment--of sub-section--2(A)--above--cannot--also--be--used--toward--the fulfillment--of--the--esthetics--teacher--continuing--education requirement--in--addition--the--hours--must--be--earned--during the--appropriate--prerenewal--period.~~

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- 3) Esthetics Teacher. Certify on the renewal application to successful completion of a minimum of 20 hours of continuing education from an esthetics teacher continuing education sponsor approved by the Department, in accordance with Section 1175.1200 of this Part, within the 2 years prior to the expiration date of the license.

A) ~~For--the--September--30--1994--renewal--each--individual--who applies--for--renewal--of--their--esthetics--teacher--license--other--than--first--time--renewal--applicants--will--be--required to--complete--10--hours--of--continuing--education--in--accordance with--Subpart--I--~~

A) ~~Beginning with the September 30, 1998, renewal, each individual who applies for renewal of his/her esthetics teacher license, other than first time renewal applicants, will be required to complete 20 hours of continuing education in accordance with Section 3A-6 of the Act. Ten of the 20 hours shall be in the following areas:~~

- i) Teaching methodology;
- ii) Educational psychology;
- iii) Classroom management; or
- iv) Other teaching related courses.

B) A renewal applicant is not required to comply with continuing education for the first renewal after issuance of original license.

C) The Department may require additional evidence demonstrating compliance with the CE requirements (i.e., certificate of attendance or certificate of completion). It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance. Such evidence shall be required in the context of the Department's random audit.

4) Submit the required fee set forth in Section 1175.100.

5) It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to renew a license.

6) Practicing or operating on a license that which has expired shall be considered unlicensed activity and shall be grounds for discipline pursuant to Section 4-7 of the Act.

(Source: Amended at 21 Ill. Reg. 601.100, effective 1/1/99.)

## Section 1175.730 Restoration - Esthetics

- a) A person applying for restoration of a his license as an esthetician that which has been expired for less than 5 years shall submit an application on forms provided by the Department; and either:

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- 1) All of the following:
- A) pay the required fee; and
  - B) provide evidence of successful completion of 10 hours of continuing education in accordance with Section 1175.1200 of this Part; earned within the 2 years immediately preceding the restoration; if--restoring--on--or--after--September--30--1993--or--
- 2) 3) If restoring after active military service, the applicant shall submit a copy of the applicant's Honorable Discharge form (DD-214) and the current renewal fee.
- b) A person applying for restoration of a his license as an esthetician that which has been expired for 5 years or more shall submit an application on forms provided by the Department along with either:
- 1) All of the following:
    - A) Verification of employment attesting to lawful practice in another jurisdiction within the 5 years preceding application for restoration;
    - B) 2) A certification from the appropriate licensing authority in the jurisdiction in which lawful practice is claimed;
    - C) 3) A complete work history showing all employment since the Illinois license lapsed or was placed on inactive status;
    - D) 4) A completed Restoration Questionnaire;
    - E) 5) Evidence of successful completion of 10 hours of continuing education earned within the 2 years immediately preceding restoration; and
    - F) 6) The required fee set forth in Section 1175.100; or--
  - 2) 7) If restoring from active military service, a copy of the applicant's DD-214 must be submitted and the current renewal fee.
- c) An applicant for restoration who has not maintained a lawful practice (as determined by the laws of that jurisdiction) in another jurisdiction shall also submit official transcripts showing successful completion of a 125 hour esthetics refresher course from an approved cosmetology or esthetics school or pass the esthetics licensure examination pursuant to Section 1175.710 within 2 years prior to or within 2 years after application for restoration. An applicant who completes this refresher course or takes the examination shall not also be required to complete 10 hours of continuing education.
- d) If an applicant takes and fails the examination, the license will not be restored until such time as he/she has successfully completed the examination.

(Source: Amended at 21 Ill. Reg. 7277, effective MAY 24 1994)

## Section 1175.735 Restoration - Esthetics Teacher

- a) A person applying for restoration of a his license as an esthetics teacher that which has been expired for less than 5 years shall submit

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- an application on forms provided by the Department; and:
- 1) Pay pay the required fee as set forth in Section 1175.100; and
  - 2) provide evidence of successful completion of 20 10 hours of continuing education in accordance with Section 1175.1210 of this Part; earned within the 2 years immediately preceding the restoration; if--restoring--on--or--after--September--30--1994.
- 3) If restoring after active military service, the applicant shall submit a copy of the applicant's Honorable Discharge form (DD-214) and the current renewal fee.
- b) A person applying for restoration of a his certificate as an esthetics teacher that which has been expired for 5 years or more shall submit an application on forms provided by the Department, along with either:
- 1) All of the following:
    - A) Verification of employment attesting to lawful teaching practice in another jurisdiction within the 5 years preceding application for restoration;
    - B) 2) A certification from the appropriate licensing authority in the jurisdiction in which lawful practice is claimed;
    - C) 3) A complete work history showing all employment since the Illinois esthetics teacher license lapsed;
    - D) 4) A completed restoration questionnaire;
    - E) 5) A copy of the applicant's current Illinois esthetician or cosmetology license; and
    - F) 6) The required fee set forth in Section 1175.100; or--
  - 2) 7) If restoring after active military service, a copy of the applicant's DD-214 form and the current renewal fee.
- c) An applicant for restoration who has not maintained a lawful esthetics teaching practice (as determined by the laws of that jurisdiction) in another jurisdiction shall submit official transcripts showing successful completion of a 125 hour teacher refresher course from an approved esthetics or cosmetology school or pass the esthetics teacher examination in accordance with Section 1175.710 within 2 years prior to application for restoration. An applicant who completes this refresher course shall not also be required to complete 20 10 hours of continuing education.
- d) If an applicant takes and fails the examination, the license will not be restored until such time as he/she has successfully completed the examination.

(Source: Amended at 21 Ill. Reg. 7277, effective MAY 24 1994)

## SUBPART H: ESTHETICS SCHOOLS

## Section 1175.800 Esthetics School Application

- a) An applicant for an esthetics school license shall submit a completed application to the Department with the following information and



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## documentation:

- 1) A a detailed floor plan consistent with the requirements of Section 1175.810(a)(1) of this Part;
  - 2) A a copy of a lease showing at least a 1 one year commitment to the use of the school site or certification of ownership of the proposed school site;
  - 3) If if owner is a corporation, a copy of the Articles of Incorporation;
  - 4) If if owner is a partnership, a listing of all partners and their current addresses;
  - 5) A a signed fire inspection report from the local fire authority within 6 months prior to application giving approval for use of the site as a school;
  - 6) A financial statement prepared by a public accountant licensed by the Department pursuant to the Illinois Public Accounting Act who is not an employee of the school, indicating sufficient current finances exist to operate the school for at least 3 months; a completed financial statement of assets, liabilities and net worth showing the owner's ability to operate the school for at least 3 months as evidenced by the owner's signature certifying that the information is true;
  - 7) A a copy of the official enrollment agreement student contract to be used by the school which shall be consistent with the requirements of Section 1175.815 of this Part;
  - 8) A a listing of all esthetics and cosmetology teachers, including their teacher license numbers, who will be in the school's employ; Per cosmetology teachers a copy of the letter of authority to teach esthetics issued by the Department in accordance with Section 1175.715(e) shall be submitted with the application;
  - 9) A a copy of the curricula that which will be followed;
  - 10) A a copy of the school's official transcript; and
  - 11) The the required fee set forth in Section 1175.100.
- b) When the above items have been received, the Department shall inspect the school premises, prior to school approval, to determine compliance with this Subpart. School operations shall not commence nor shall the school in any way solicit student enrollment, until the school has received written notice of approval from the Department. Approval will be granted if all of the requirements of this Subpart H have been met.
- c) Esthetics schools shall only offer instruction in esthetics and esthetics teacher education.

(Source: Amended at 21 Ill. Reg. 920712, effective \_\_\_\_\_)

Section 1175.805 Cosmetology Schools Approved to Teach Esthetics

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- a) Existing cosmetology schools that who wish to provide esthetics instruction shall:
- 1) provide 200 square feet of space to accommodate 5 five work stations and a maximum of 10 students. If attendance exceeds 10 on the clinic floor at any time, an additional 40 square feet is required for each additional work station required by subsection (a)(4)(B) of this Section. For enrollment over 107 the school must provide an additional 40 square feet which includes a work station and facial chair. The use of this space shall not reduce the square footage for the conduct of an approval cosmetology school below the minimum requirements set forth in this Part.
  - 2) File an application with the Department, on forms provided by the Department, which shall include:
    - A) A detailed floor plan;
    - B) A a signed copy of fire inspection report from the local fire authority within 6 months prior to application giving approval for use of the site as a school;
    - C) A financial statement prepared by a public accountant licensed by the Department pursuant to the Illinois Public Accounting Act who is not an employee of the school, indicating sufficient current finances exist to operate the school for at least 3 months; a completed financial statement of assets, liabilities and net worth showing the owner's ability to operate the school for at least 3 months as evidenced by the owner's signature certifying that the information is true;
    - D) A a copy of the enrollment agreement student's contract to be used by the school;
    - E) A copy of the esthetics curriculum;
    - F) A a listing of all esthetics and cosmetology teachers, including their teacher license numbers, who will be in the school's employ; Per cosmetology teachers a copy of the letter of authorization to teach esthetics issued by the Department in accordance with Section 1175.715(e) shall be submitted with the application;
    - G) A copy of the school's official transcript; and
    - H) The the required fee set forth in Section 1175.100.
  - 3) When the above items have been received, the Department shall inspect the school premises, prior to school approval, to determine compliance.
  - 4) In addition, the school shall have meet the following:
    - A) At least one One facial chair for every 2 two students enrolled.
    - B) At least one One work station or position for every 2 two students.
    - C) Every work station shall have 1 one set of facial equipment to include manual, mechanical, or electrical apparatus as follows:

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i) ~~electrical-heating-mask~~

ii) ~~Steamer steamer~~

iii) ~~Brushing brushing~~

iv) ~~Vacuum vacuum/spray machine~~

v) ~~Glass glass electrode or high frequency current~~

vi) ~~Disenocrustation disenocrustation machine~~

vii) ~~One one magnification lamp~~

viii) ~~Woods lamp.~~

D) Provide provide an esthetics curriculum in accordance with Sections ~~1175.830 and 1175.835~~ and 1175.840.

b) Cosmetology schools approved to teach esthetics shall be required to comply with all provisions in this Part except for Section 1175.810(a) and (b).

(Source: Amended at 21 Ill. Reg. ~~7341~~, effective ~~11-1-2000~~)

## Section 1175.810 Physical Site Requirements

a) Space Requirements

1) A school shall have a minimum of 1,800 square feet for a maximum of 20 students. An additional 40 square feet is required for each additional student if attendance exceeds 20 on the clinic floor at any given time.

2) The school shall be partitioned to provide for the following areas:

A) Dispensary area

B) Laboratory

C) Classrooms

D) Separate restrooms ~~A-separate-restroom~~ for males and females

E) Cloak space

F) Public ~~A-public~~ waiting area separated from the work area

G) Student ~~A-student~~ lounge area

H) Storage space

I) Locker space

J) Conference room

K) Other areas for school administration

L) Work stations.

3) All areas of the school shall be ventilated and lighted.

b) Equipment Requirements - All equipment shall be in working condition and sufficient for the number of students enrolled. Minimum requirements for school equipment are ~~A-school-shall-have-the~~ following-equipment:

1) An entrance sign designating the name of the school;

2) A school seal;

3) A time clock or other equipment necessary for verification of attendance and hours earned;

4) A minimum of 10 ~~ten~~ facial chairs. For enrollment over 20, one

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facial chair per 2 ~~two~~ students:-

5) A minimum of 10 ~~ten~~ work stations. For enrollment over 20, 1 ~~one~~ work station or position per 2 ~~two~~ students:-

6) Every station shall have 1 ~~one~~ set of facial equipment to include manual, mechanical, or electrical apparatus as follows:

A) ~~electrical-heating-mask~~

A) ~~B) Steamer steamer~~

B) ~~Brushing brushing~~

C) ~~B) Vacuum vacuum/spray machine~~

D) ~~E) Glass glass electrode or high frequency current~~

E) ~~F) Disenocrustation disenocrustation machine~~

F) ~~G) Magnification one-magnification lamp~~

G) ~~Woods lamp.~~

7) Trays for facial supplies;

8) One dry sterilizer per 2 ~~two~~ work stations;

9) One facial supply cabinet containing astringents, lotions, creams, makeup and other necessary supplies for facials;

10) Desk/table space and a chair for each student in the classroom;

11) Adequate covered disposal cans placed at convenient locations;

12) One covered container for soiled towels for each 10 students in clinical work area;

13) Closed cabinets equipped for storing towels; and-

14) One head form or chart per class.

c) Sanitary Regulations

1) Clean outer garments must be worn at all times. No open toed shoes shall be worn by students.

2) All instruments shall be sanitized before and after use on each patron.

3) Clean towels shall be used for each patron.

4) Hands must be cleansed before and after serving each patron.

5) After serving each patron is served, electrical equipment must be sanitized according to manufacturer's specifications. All other equipment should be washed in water and sanitized before use.

6) The head rests of any chair shall be protected with a disposable cover and changed after each patron.

7) Non-disposable head coverings must be laundered and sanitized after each separate use.

8) All powders, lotions, creams, and other cosmetics shall be kept in clean, closed containers. All cosmetics shall be applied by sanitary applicators and removed from the container with a sanitary spatula.

9) No owner, manager, teacher or school administrator shall knowingly permit any person suffering from a serious communicable disease as defined in 77 Ill. Adm. Code 690 to work on the premises, or knowingly permit a student to serve a patron with a serious communicable disease.

10) No animals or pets, except seeing eye/hearing dogs, shall be permitted on school premises.

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- 11) The floors, walls and furniture shall be kept clean at all times.  
 12) An adequate supply of hot and cold running water shall be available for school operation.  
 d) Textbooks/Teaching Materials - Textbooks shall be provided for each student in attendance.  
 e) Teachers - The student/teacher ratio during clinical instruction shall not exceed a 20 to 1 ratio.

(Source: Amended at 21 Ill. Reg. 72.271, effective \_\_\_\_\_)

## Section 1175.815 Enrollment Agreements and Refund Policy Student-Contracts

- a) All licensed esthetics schools shall have enrollment agreements that meet the requirements of Section 3B-12 of the Act.  
 b) All licensed esthetics schools shall implement refund policies pursuant to Section 3B-13 of the Act and this Part.  
 1) When notice of cancellation is given after the fifth day following enrollment but before the completion of the student's first day of class attendance, the school may retain no more than the application and registration fee, plus the cost of any books or materials which have been provided by the school and retained by the student (Section 3B-13(b)). The cost of books for purposes of refunds is the cost of the books charged to the student, not the cost of the books to the school.  
 2) For students who enroll in and begin classes, tuition adjustment shall be made in the following manner:

PERCENTAGE TIME TO TOTAL TIME OF COURSE	AMOUNT OF TOTAL TUITION OWED TO THE SCHOOL
0.01% to 4.9%	10%
5% to 9.9%	30%
10% to 14.9%	40%
15% to 24.9%	45%
25% to 49.9%	70%
50% and over	100%

- a) All student contracts used with students or prospective students by an approved esthetics school or cosmetology school approved to teach esthetics shall be clearly labeled as a contract and shall include the following information:  
 1) the name and address of the school;  
 2) the date the contract was signed by the student and the date the student was admitted;  
 3) the name and description of the course of instruction including the number of clock hours in each course and an approximate number of weeks or months required for completion;

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- 4) The scheduled starting date and calculated completion date;  
 5) A clear and conspicuous caption "BUYER'S RIGHT TO CANCEL" under which it is explained that the student has the right to cancel the initial enrollment agreement until midnight of the fifth business day after the student has been enrolled; and if notice of the right to cancel is not given to any prospective student at the time the enrollment agreement is signed, then the student has the right to cancel the agreement at any time and receive a refund of all monies paid to date within 10 days of cancellation; and notice to the students that the cancellation must be in writing and given to the registered agent; if any or managing employee of the school;  
 7) The name of the school employee or agent responsible for procuring, soliciting or enrolling the student;  
 8) A clear statement that the institution does not guarantee employment and a statement describing the school's placement assistant procedures;  
 9) The graduation requirements of the school;  
 10) The total cost of the course of instruction including any charges made by the school for tuition, books, materials, supplies, and other expenses;  
 11) A clear and conspicuous statement that the contract is a legally binding instrument when signed by the student and accepted by the school;  
 12) A clear and conspicuous statement that if an approved esthetics school transfers any contract or interest in the contract to another party, the student has the right afforded to him or her by the transferee as by the transferor;  
 13) The contents of the following notice in at least 10 point bold type:

"NOTICE TO THE STUDENT"

- "Do not sign this contract before you read it or if it contains any blank spaces.  
 You are entitled to an exact copy of the contract you sign."  
 14) A clear and concise statement of the school's refund policy for unearned tuition, fees, and other charges;  
 15) A statement either in the enrollment agreement or separately provided and acknowledged by the student indicating the number of students who did not complete the course of instruction for which they enrolled for the past calendar year as compared to the number of students who enrolled in school during the school's past calendar year;  
 16) The following clear and conspicuous caption: "COMPLAINTS AGAINST THIS SCHOOL MAY BE REGISTERED WITH THE DEPARTMENT OF PROFESSIONAL REGULATION," set forth with the address and telephone number of the Department's Chicago and Springfield offices;  
 17) If the enrollment or student contract is negotiated orally in a language other than English, then copies of the above disclosures



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- shall be tendered in the language in which the contract was negotiated prior to executing the enrollment agreement.
- b) The school shall comply with all applicable requirements of the Retail Installment Sales Act (Ill. Rev. Stat. 1989, Ch. 121-1/27, paras. 501-et seq.) in its student contracts.
- c) No student contract shall contain a wage assignment provision or a confession of judgment clause.
- d) Any provision in a student contract that purports to waive the student's right to assert against the school or any assignee any claim or defense he may have against the school arising under the contract shall be void.

(Source: Amended at 21 Ill. Reg. 7273E, effective MAY 24 1991)

## Section 1175.825 Recordkeeping - Transcripts

- a) Each school shall provide an official transcript showing the entire course work of each student. The official transcript shall contain the following information:

- 1) School school's name and address;
- 2) School school seal;
- 3) School school license number;
- 4) Signature signature of owner, registrar or director of the school;
- 5) Student's student's name, address and social security number;
- 6) Actual actual dates student attended;
- 7) Subject subject areas, hours earned, and grades received;
- 8) Any any transfer hours citing the name and address of school transferred from, subject areas, hours earned, and grades received;
- 9) Final final examination grades; and
- 10) Graduation graduation date.

- b) The official transcript and school records for each student shall be permanently maintained by the school in the following manner:

- 1) If maintained on the school premises, they shall be maintained in a locked, fire-resistant fireproof cabinet. If official transcripts are maintained on a computer system, history tapes or discs of all official records must be stored in a locked, fire-resistant fireproof cabinet.
- 2) If records cannot be maintained on the premises in locked fire-resistant fireproof cabinets, duplicate student records, including the official transcripts, shall be maintained at a separate location that which shall be made known to the Department. Such records shall be accessible to Department officials for inspection.

- c) An official transcript and school records for students who withdrew or dropped out of a program shall be maintained by the school for 7 years

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from the student's first day of attendance at the school.

d) A copy of the transcript shall be given to the student upon graduation or other permanent exit from the school provided the student has met all financial obligations set forth in the enrollment agreement student contract as set forth in Section 1175.815.

(Source: Amended at 21 Ill. Reg. 7273E, effective MAY 24 1991)

## Section 1175.830 Recordkeeping - Hours Earned

- a) A complete and accurate record of hours of attendance for each student must be recorded and maintained by the school.
- b) If a time clock is used, each student shall punch his/her own time card. No student, teacher, or any other person shall punch the time card of another student. If a time clock is not used, there shall be another verifiable method used by the school to record student hours. The records must be in a form that which allows the student to receive a written report of hours earned. This report of hours earned shall be provided to the student on a monthly basis.
- c) Credit for hours earned away from school premises shall be awarded only if students are supervised by a licensed instructor or by a licensed esthetician or licensed cosmetologist in the case of an internship. Credit hours for outside study may include workshops, educational programs, films, and demonstrations and internship training in a registered salon.
- d) Hours earned away from the school premises shall be recorded on school time forms. These forms shall include: the school seal, name of student, event or program attended, date attended, signature of student and signature of supervising, licensed instructor.
- e) Instructors shall review the hours earned by each student monthly. Each month the instructor shall issue a signed written monthly report to the student showing the actual number of hours earned by the student.
- f) Time cards may be destroyed upon the student's permanent exit from the school and after all hours earned are recorded on the official transcript.
- g) An hour is not less than 50 nor more than 60 minutes of instruction.
- h) A licensed instructor shall supervise all classroom, practical and clinical instruction study. No credit shall be given for unsupervised study.

(Source: Amended at 21 Ill. Reg. 7273E, effective MAY 24 1991)

## Section 1175.835 Curriculum Requirements - Esthetics

- a) Each licensed cosmetology school teaching an esthetics curriculum and

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licensed esthetics school shall provide a minimum of 750 hours of course instruction as follows:

- 1) Basic Training General-theory-and-practical-application - 75 to 100 hours of classroom instruction in general theory and practical application shall be provided which shall be divided into the following subject areas:

history of skin care  
personal hygiene and public health  
professional ethics  
understanding-the-uses-of-electricity  
sterilization and sanitation  
introduction to skin analysis and skin care and facial treatments

- 2) Scientific Concepts - 150 hours of classroom instruction shall be provided in the following subject areas:

cells, metabolism and body systems  
bacteriology  
physiology and histology of the skin  
human anatomy

- 3) Practices and Procedures - 500 to 750 hours of instruction, which shall be a combination of classroom instruction and clinical application, shall be provided in the following subject areas:

non-therapeutic massage, excluding the scalp  
nutrition and health of skin  
skin analysis  
cleansing the skin  
mask therapy and facial treatments  
facial treatments without the aid of machines  
electricity, machines and apparatus  
facial treatments with the aid of machines  
hair removal; including tweezer method, depilators, waxing and their use

- 4) Business Practices - 25 hours of classroom instruction shall be provided in the following subject areas:

Illinois Barber, Cosmetology, and Esthetics and Nail Technology Act and Rules Management  
OSHA standards relating to chemical use

- 5) Internship Program is an optional part of the curriculum. Each licensed esthetics school may choose to set up an internship program and shall follow the guidelines set forth below:

A) An internship program:

- i) May be substituted for 75 hours of the 750 hours set forth in this subsection (a).
- ii) May be part of the curriculum of a licensed esthetics

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school and shall be an organized preplanned training program designed to allow a student to learn esthetics under the direct supervision of a licensed cosmetologist or licensed esthetician in a registered salon.

- B) A student in the internship program:

- i) May participate in an internship program only after completing 375 hours of training and have a minimum average grade of 80. A school may set the average grade higher and set other standards that a student must meet to participate in the internship program.

- ii) May not spend more than 75 hours in an internship program.

- iii) May not be paid while participating in this internship program as it is a part of the esthetics curriculum of the school.

- iv) May work a maximum of 8 hours a day and shall be required to spend 1 day a week at the school.

- v) Shall be under the direct on-site supervision of a licensed cosmetologist or licensed esthetician. Only a student shall be supervised by a licensed cosmetologist or licensed esthetician.

- C) A licensed esthetics school shall state clearly in the student contract or enrollment agreement that the school offers an internship program.

- D) The licensed esthetics school shall enter into a contract with the student, the registered salon and licensed cosmetologist or licensed esthetician. The contract shall contain all of the provisions set forth in this subsection (a)(5) and any other requirements of the internship program established by the school. The contract shall be signed by the student, the school and the licensed cosmetologist or licensed esthetician. Any party to the contract may terminate the contract at any time.

- b) An esthetics student is not permitted to practice on the public until the successful completion of 75 hours of training theory-and-practical-application specified in subsection (a)(1) above.

(Source: Amended at 21 Ill. Reg. effective  
MAY 28 1998)

## Section 1175.840 Curriculum Requirements - Esthetics Teachers

- a) An approved school that which intends to provide teacher training must utilize a teacher curriculum which includes a minimum of 750 to 1000 hours as follows:

- 1) 250 to 500 hours of Post-Graduate School Training that which

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includes: all subjects in the basic esthetics curriculum in Section 1175.835 including theory and practice. Presentation of material must include the concepts that which are intended to be taught and the skills to be acquired during the various phases of basic education.

- 2) 20 hours of Educational Psychology that which shall include, but not be limited to, topics in educational objectives, student characteristics and development, the learning process and an evaluation of learning that which relates to teaching. This course shall be presented by a person qualified to teach educational psychology at the college level or a licensed cosmetology or esthetics teacher who has completed a course of instruction which included the topics set forth above or an equivalent program. These hours shall be waived on behalf of esthetics teacher students who have completed a course in Educational Psychology at an accredited college or university within the five years immediately preceding admission to the esthetics teacher program.
- 3) 20 hours of Teaching Methods (Theory) that which shall include, but not be limited to, topics in individual differences in learning, lesson planning and design, lesson delivery, assessment of learning performance, classroom management, student motivation and classroom climate. This course shall be presented by a person qualified to instruct in Teaching Methods - Secondary Level at a college or university or a licensed cosmetology or esthetics teacher who has completed a course of instruction which included topics set forth above or an equivalent program. These hours shall be waived on behalf of esthetics teacher students who have completed a course in Teaching Methods - Secondary Level at an accredited college or university within the five years immediately preceding admission to the esthetics teacher program.
- 4) 150 hours of Application of Teaching Methods that include which includes: preparation and organization of subject matter to be presented on a unit by unit basis; and presentation of subject matter through application of varied methods (lecture, demonstration, testing and assignments). Presentations must provide teaching objectives to be accomplished and correlate theoretical with practical application.
- 5) 50 hours of Business Methods that which include: Inventory, recordkeeping, record-keeping, interviewing, supplies, the Illinois Barber, Cosmetology, and Esthetics, and Nail Technology Act of 1985 and 68 Ill. Adm. Code 1175.
- 6) 260 hours of Student Teaching under the on-site direct supervision of an Illinois licensed teacher. The student teacher shall present theoretical and practical demonstrations to students in the basic curriculum.
- b) The approved curriculum for a 500 hour Teacher Training Course shall be based upon 2 years of practical experience and shall consist of the

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Teacher Training Curriculum outlined in this Section 1175.400 with the exception of the 250 500 hours of Post-Graduate Training.

(Source: Amended at 21 Ill. Reg. 22, effective MAY 2, 1991)

## Section 1175.845 Final Examination

- a) A school shall require each candidate for graduation to pass a final examination that which shall test the student's theoretical and practical knowledge of the curriculum studied.
- b) The practical examination shall test the candidate's skills in the following areas:
  - 1) Non-therapeutic non-therapeutic massage;
  - 2) Electrical electrical facial treatments;
  - 3) Other other kinds of facial treatments;
  - 4) Makeup makeup application; and
  - 5) Hair hair removal.
- c) The examination shall be administered by the uniform application of standard performance criteria established by the school for each skill area. The standard performance criteria for each skill area shall be delineated in the examination records as specified in subsection (h), below.
- d) A passing score of 75 or greater shall be required on both the theoretical and practical portions of the final examination.
- e) The school shall allow each candidate for graduation at least 3 three attempts to pass the final exam.
- f) The Department may monitor the administration of the final examination:
  - 1) As as a result of a complaint received;
  - 2) For for random sampling;
  - 3) To to collect data; and/or
  - 4) When when the failure rate on the licensure examination for school graduates is greater than 25%.
- g) The Department shall maintain records of each school's graduate failure rate on the licensing examination. The records shall reflect only first examination attempts for each graduate. The examination results shall not count toward the failure rate on the licensing examination if the student transfers to the school from a closed school with one-half or more of the required hours for graduation. The Department shall review the records on an annual basis to identify those approved schools which have an average annual failure rate greater than 25%. An average annual failure rate greater than 25% is grounds for school disapproval. The first annual review of the records shall commence one year from the effective date of this part.
- h) The school shall maintain records of the final examination for a period of no less than 5 years in the manner prescribed in Section 1175.825(b) of this part. These records shall include:



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- 1) A copy of the final examination administered; and  
 2) Each student's examination grades.

(Source: Amended at 21 Ill. Reg. 7277E, effective 7/27/77)

## Section 1175.850 Change of Ownership

- a) When the ownership of an approved school changes, the new owner shall, within 5 working days from the date title to the school is transferred, mail to the Department the following:

- 1) An affidavit stating that the contract is contingent on a certificate being issued to the new owner. If this is not provided, the school must close on the date of the transfer and remain closed until a new certificate is issued;
  - 2) A signed and completed school application;
  - 3) A floor plan if any expansion is to be done by the new owner;
  - 4) A copy of a lease agreement showing at least a 1 year commitment or certification of school site ownership;
  - 5) A copy of the enrollment agreement that student--contract--which will be utilized by the new owner;
  - 6) If owner is a corporation, a copy of the Articles of Incorporation;
  - 7) If owner is a partnership, a listing of all partners and their addresses;
  - 8) A signed inspection report by the local fire inspection authority within 6 months prior to application approving the school site;
  - 9) A financial statement prepared by a public accountant licensed by the Department pursuant to the Illinois Public Accounting Act who is not an employee of the school, indicating sufficient current finances exist to operate the school for at least 3 months; A complete financial statement of assets, liabilities and net worth showing the new owner's ability to operate the school for 3 months as evidenced by the owner's signature certifying that the information is true;
  - 10) If a name change is to also occur, the new owner must submit a sample of the new school seal and a photo of the new school sign; and
  - 11) The required fee set forth in Section 1175.100.
- b) Once the above items have been received, the Department shall conduct an inspection prior to approval of the change of ownership. Approval will be granted if the requirements of Subpart H have been met.

(Source: Amended at 21 Ill. Reg. 7277E, effective 7/27/77)

## Section 1175.855 Change of Location

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- a) When the location of an approved school is changed, the school owner shall submit to the Department the following:

- 1) Written notice to the Department at least 30 days in advance of the school site change;
  - 2) A signed and completed school application;
  - 3) A floor plan;
  - 4) A copy of a lease agreement showing at least a 1 year commitment or certification of ownership of school site;
  - 5) A signed inspection report by the local fire inspection authority within 6 months prior to application approving the site; and
  - 6) The required fee set forth in Section 1175.100.
- b) Once the above items have been received, the Department shall inspect the premises to determine compliance with this Part. School operations shall not commence at the new location nor may the school in any way solicit student enrollment until the owners have received written notice of approval from the Department. Approval will be granted if the requirements of Subpart H have been met.

- c) If the change of location is due to natural destruction of the original premises, a temporary site may be used to teach theory classes only.

- 1) The temporary site must be inspected prior to its use and must possess light and ventilation, tables and chairs for the number of students in a classroom, and must be clean.
- 2) The temporary site may be used for a period of 2 months. The 2 month period can be extended for good cause. Good cause includes, but is not limited to, unexpected delays in construction, delays in lease arrangements or delays in equipment delivery.

(Source: Amended at 21 Ill. Reg. 7277E, effective 7/27/77)

## Section 1175.865 Expansion

- a) Written notice shall be given to the Department 30 days prior to any expansion of an approved school.
- b) When the expansion will result in an off-site classroom location, a completed school application must be submitted along with:

- 1) A detailed floor plan;
- 2) A copy of a lease showing at least a 1 year commitment to the use of the site or certification of ownership of the proposed site;
- 3) A signed fire inspection report from the local fire authority within 6 months prior to application giving approval for use of the site as an off-site classroom location;
- 4) A statement from the school owner outlining the purpose of the classroom location;
- 5) A listing of any and all additional teachers who will be added to the teaching staff as a result of the expansion;

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- 6) A financial statement prepared by a public accountant licensed by the Department pursuant to the Illinois Public Accounting Act who is not an employee of the school, indicating sufficient current finances exist to operate the school for at least 3 months; and ~~A financial statement of assets, liabilities and net worth which shall reflect the owner's assets and debts inclusive of cost incurred or to be incurred as a result of the expansion.~~
- 7) The required fee set forth in Section 1175.100.
- 8) An off-site classroom location is defined as a separate classroom that ~~which~~ is located within 5 miles of the main school site ~~that~~ and ~~which~~ serves to provide adequate space in which to train an overflow of students. A clinic may not be operated at an off-site classroom location. A school may establish only one off-site classroom location. All identifying signs and materials must reflect the name of the main school.
- c) When an on-site expansion is to accommodate an increased enrollment, a completed school application shall be submitted along with:
- 1) ~~A~~ a detailed floor plan;
  - 2) ~~A~~ a statement from the school owner outlining the purpose of the expansion;
  - 3) ~~A~~ a listing of any and all additional teachers who will be added to the teaching staff as a result of the expansion; and
  - 4) ~~The~~ the required inspection fee set forth in Section 1175.100.
- d) Upon receipt of the above items, the Department shall inspect the expansion site to determine compliance with this Part. The site shall not be used until such inspection has occurred and the owner has received written notification of approval from the Department. Approval will be granted if all of the requirements of Subpart H have been met.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1175.870 Discontinuance of Program

- a) The Department shall receive a minimum of 30 days written notice of a school's intent to discontinue its program. The notice shall include the exact location where the student records are to be stored.
- b) The school owner shall notify the Department in writing of the actual closing date of the school.
- c) All school records shall be maintained after the school closes.
- d) The school must continue to meet the requirements of the Act and this Part until the actual closing date.
- e) Each student enrolled at the time of discontinuation must be provided an official transcript of all hours earned while enrolled in the program.
- f) All refunds shall be given to students in accordance with the refund provisions set forth in the enrollment agreement student contract.

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(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1175.875 Withdrawal of Approval

- a) The Department may withdraw, suspend or place on probation, pursuant to 68 Ill. Adm. Code 1110, the approval of a school of cosmetology or esthetics school when the quality of the program has been affected by any of the following causes:
- 1) Gross or repeated violations of any provisions of the Act or this Part;
  - 2) Fraud or dishonesty in furnishing transcripts or documentation for evaluation of the school;
  - 3) Failure to meet the criteria for school approval in Section 1175.800;
  - 4) Failure to administer the final examination as specified in this Part;
  - 5) Failure to maintain final examination grades for each student and a master of the examination administered by the school as specified in this Part;
  - 6) Fraud or dishonesty in providing transcripts to students who have fulfilled all obligations under Section 1175.815;
  - 7) Failure to provide transcripts to students;
  - 8) A finding by the U.S. Office of Education or Illinois Student Assistance Commission that a school has misappropriated or misused grant or loan monies or has aided in obtaining such monies by providing fraudulent or untruthful information; and
  - 9) Any other violations of the Act or this Part.
- b) Performance Record on Licensing Examination
- 1) When a school's graduates have a 25% or greater failure rate on the licensing examination, Department approval of a school shall be reviewed pursuant to Section 1175.800.
  - 2) The performance record of a school's graduates on the licensing examination as compared with the statewide performance record shall be considered by the Department when reviewing Department approval of a school.
  - 3) The Department shall give written notice and a hearing pursuant to 68 Ill. Adm. Code 1110 when Department approval of a school is being reviewed.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART I: CONTINUING EDUCATION - ESTHETICIAN/ESTHETICS TEACHER

## Section 1175.900 Sponsor Approval (Repealed)

a) ~~Sponsor, as used in this Section, shall mean a person or firm~~

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association, corporation, or any other group which has been approved and authorized by the Department to coordinate and present continuing education (CE) courses or programs for estheticians or esthetic teachers.

- b) A esthetician continuing education sponsor application shall be filed with the Department to be approved as an esthetician continuing education sponsor. An esthetician teacher continuing education sponsor application shall be filed with the Department to be approved as an esthetician teacher continuing education sponsor. All sponsors shall certify that they will comply with all sponsor CE requirements set forth in this Subpart.
- c) An esthetician sponsor shall provide CE courses and programs which are organized programs of formal learning which contribute directly to a esthetician's knowledge and ability to perform his duties as a esthetician. A continuing education program or course must meet the following minimum requirements:

1) A esthetics course or program shall include as its subject matter one or more of the following:

- A) Advanced product chemistry and chemical interaction;
- B) The use of machines for care of the face and skin;
- C) Sanitary procedures;
- D) Makeup techniques;
- E) Advanced knowledge of the anatomy of the skin;
- F) Human relations/communications skills;
- G) Management and marketing;
- H) Non-permanent hair removal techniques;
- I) Non-therapeutic massage.

2) All programs shall be developed and presented by persons with education, training and/or practical experience in the subject matter to be presented.

3) All programs must include a student evaluation of both the instructor and the course.

4) All programs shall specify the course objectives, content, prerequisites, requirements and the number of CE hours to be earned. Such information shall be specified in all promotional materials.

d) A esthetics teacher sponsor shall provide CE courses and programs which are organized programs of formal learning which contribute directly to a esthetician's knowledge and ability to perform his duties as an esthetician. A continuing education program or course must meet the following minimum requirements:

1) An esthetics teacher course or program shall include as its subject matter one or more of the following:

- A) Educational Psychology;
- B) Teaching techniques as they apply to the use of machines for care of the face and skin;
- C) Teaching Methods;
- D) Business Methods;
- E) Human Relations.

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- P) Counseling Techniques;
- G) Student Evaluation Skills;
- H) State and Federal Laws pertinent to esthetics;
- I) Tests and Measurements;
- J) Written and Verbal Communication Skills.

2) All programs shall be developed and presented by persons with education, training and/or practical experience in the subject matter to be presented.

3) All programs must include a student evaluation of both the instructor and the course.

4) All programs shall specify the course objectives, content, prerequisites, requirements and the number of CE hours to be earned. Such information shall be specified in all promotional materials.

e) All sponsors shall verify attendance at each CE course or program. A record of attendance shall be kept for no less than 5 years. Sponsors shall give each successful participant a record of completion at the end of the course or program. All records shall include the following information: name, address, identification number of participants, course title, CE hours awarded, date of course, name of instructor and name of sponsor.

(Source: Repealed at 21 Ill. Reg. effective MAY 24, 1977.)

## Section 1175.905 Department Supervision (Repealed)

a) The Department shall audit sponsors and their programs upon written complaint or allegation that the sponsor has not fully complied with the requirements of this Subpart.

b) A sponsor's approval will be terminated if the sponsor fails to provide information to the Department to ascertain compliance with this Subpart.

c) Upon failure of any sponsor to comply with the requirements of Subpart 17, the Department shall issue a written notification to the sponsor that it must remedy its non-compliance prior to providing further approved courses.

(Source: Repealed at 21 Ill. Reg. effective MAY 24, 1977.)

## Section 1175.910 Credit Hours (Repealed)

a) An approved CE program hour shall include at a minimum 50 minutes of actual class time exclusive of time devoted by participants to pre-class or post-class preparation.

b) Courses completed at a university or college shall receive 15 CE credit hours for each semester hour or 10 CE hours for each quarter



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hour-of-school-credit-awarded-

- e† A--licensee--(esthetician--or--esthetics--teacher)--who--serves--as--an instructor--speaker--or--discussion--leader--of--an--approved--course--shall be--allowed--CB--credit--for--actual--presentation--time--preparation--time--shall--receive--1--hour--credit--for--each--2--hours--of--actual--presentation time--preparation--time--for--repetitious--presentations--of--the--same course--shall--not--receive--credit--No--more--than--10--hours--of--credit--can be--earned--under--this--section--during--any--renewal--period;
- d† Credit--will--be--awarded--for--successful--completion--of--courses--taken pursuant--to--continuing--education--requirements--in--another--state--Credit--hours--will--be--awarded--as--stated--in--subsections--(a)--(b)--(c)--and (c) above:

(Source: Repealed at 21 Ill. Reg. 7073, effective 1/1/94)

## Section 1175.915 Waiver of Continuing Education Requirements (Repealed)

- a† Any--renewal--applicant--seeking--renewal--of--his--license--or--certificate without--having--fully--complied--with--these--CB--requirements--shall--file with--the--Department--a--renewal--application--along--with--the--required renewal--fee--a--statement--setting--forth--the--facts--concerning--such noncompliance--a--request--for--waiver--of--the--CB--requirements--on--the basis--of--such--facts--and--if--desired--a--request--for--an--interview--before the--Committee--If--the--Department--finds--from--such--statement--or--any other--evidence--submitted--or--upon--a--recommendation--of--the--Committee that--good--cause--has--been--shown--for--granting--a--waiver--of--the--CB requirements--or--any--part--thereof--the--Department--shall--waive enforcement--of--such--requirements--for--the--renewal--period--for--which--the applicant--has--applied.

- b† Good--cause--shall--be--defined--as--an--inability--to--devote--sufficient--hours to--fulfilling--the--CB--requirements--during--the--applicable--prernewal period--because--of:

- 1† full-time--service--in--the--armed--forces--of--the--United--States--of America--during--a--substantial--part--of--such--period;
- 2† an--incapacitating--illness--documented--by--a--currently--licensed physician--or
- 3† hardship--as--defined--in--Section--3--7--of--the--Act;
- A† the--licensee--resides--in--a--locality--where--it--is--demonstrated that--the--absence--of--opportunities--for--such--education--would interfere--with--the--ability--of--the--licensee--to--provide service--to--the--public;
- B† that--to--comply--with--the--continuing--education--requirements would--cause--a--substantial--financial--hardship--on--the licensee.

- e† If--an--interview--is--requested--at--the--time--the--request--for--such--waiver is--filed--with--the--Department--the--renewal--applicant--shall--be--given--at least--30--days--written--notice--of--the--date--time--and--place--of--such

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interview-by-certified-nail-technician--return--receipt--requested-

(Source: Repealed at 21 Ill. Reg. 7073, effective 1/1/94)

## SUBPART J: NAIL TECHNOLOGY

Section 1175.1000 Application for Licensure under Sections 3C-4 and 3C-5 of the Act (Grandfather) (Repealed)

Any--person--seeking--a--certificate--of--registration--as--a--nail--technician--under Section--3C-4--or--as--a--nail--technology--teacher--under--Section--3C-5--of--the--Barber--Cosmetology--Ethetics--and--Nail--Technology--Act--of--1995--(the--Act)--shall--file--an application--with--the--Department--of--Professional--Regulation--(the--Department)--on forms--provided--by--the--Department--The--application--shall--be--postmarked--no--later than--midnight--December--31--1994--and--shall--include--the--following:

## a† For--Nail--Technician

- 1† Verification--on--forms--provided--by--the--Department--of--one--year--of full-time--practical--experience--or--2--years--of--part-time--practical experience--as--a--nail--technician--prior--to--January--1--1994--or certification--of--200--hours--of--nail--technology--education--from--a school--or--cosmetology--approved--in--accordance--with--Section 1175.1105--or--a--vocational--technical--school;
- A† Full-time--experience--for--purposes--of--this--Section--is--40 hours--or--more--per--week--and--part-time--experience--is--not--less than--20--hours--per--week.

- B† Practical--experience--as--a--nail--technician--for--purposes--of this--Section--is--gained--when--for--compensation--a--person manucures--pedicures--decorates--applies--artificial--nails or--in--any--way--cares--for--the--nails--of--another--person--for other--than--therapeutic--purposes.

- 2† An--affidavit--on--forms--supplied--by--the--Department--signed--by--an employer--co-worker--or--client--stating--the--applicant's--nail technology--practical--work--experience--(sales--experience--does--not count--as--practical--work--experience)--or--where--applicant--a--copy of--a--current--business--license.

- 3† Certification--of--graduation--from--eighth--grade--elementary--school or--its--equivalent;
- 4† A--complete--work--history--and
- 5† The--required--fee--set--forth--in--Section--3C-4(a)(1)--of--the--Act;
- 6† If--the--applicant--is--licensed--in--another--state--a--certification--of licensure--from--the--state--of--original--licensure--and--from--the--state in--which--the--applicant--predominantly--practices--and--is--currently licensed.

## b† For--Nail--Technology--Teacher

- 1† An--affidavit--on--forms--provided--by--the--Department--signed--by--an employer--or--a--co-worker--of--2--years--of--practical--experience--prior to--January--1--1994--as--a--nail--technology--teacher--for--a--school--of

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cosmetology-approved-in--accordance-with-Section--1175.1105--or--a vocational--technical--school--professional--association--or--nail salon--operated--by--or--through--a--manufacturer--of--chemicals apparatus--or--appliances--used--in--nail--technology?

2) Successful-completion-of-the-nail-technology-teacher--examination set-forth-in-Section-1175.11010.

3) A--certificate--of--competency-in-the-use-of-chemicals; apparatus and-appliances-used-in-the-practice--of--nail--technology.---Such certificate--shall--be--from--a--school--of--cosmetology--vocational technical--school; professional--association--or--nail--salon--operated by--or--through--a--manufacturer--of--such--chemicals; apparatus--or appliances--used--in--nail--technology?

4) Certification-of-graduation-from-high-school-or-its-equivalent? 5) A-complete-work-history; and 6) The-required-fee-set-forth-in-Section-36-5(a)(1) of-the-Act; if-the-applicant-is-licensed-in-another-state; a-certification-of licensure-from-the-state-of-original-licensure-and-from-the-state in--which--the-applicant-predominantly-practices-and-is-currently licensed.

(Source: Repealed at 21 Ill. Reg. 12 27 11, effective 2 27 11)

## Section 1175.1101 Examination - Nail Technician

a) Eligibility. Each applicant must meet the following requirements:

- 1) Be is at least 16 years of age.
- 2) Pursuant to Section 3C-2 of the Act:
  - A) Be a graduate of Has--graduated--from an eighth grade elementary school or its equivalent; and
  - B) Be a graduate of Has--graduated--from a cosmetology or nail technology school approved by the Department to teach nail technology in accordance with Subpart K of this Part, that which includes 350 hours in the study of nail technology extending over a period of not less than 8 13 weeks nor more than 2 consecutive years.

b) Application. Each applicant shall file an application for examination, on forms provided by the Department, at least 45 days prior to an examination date. The application shall include:

- 1) An official transcript showing successful completion of the required training outlined in subsection (a)(2)(B) above and a passing grade on the final examination administered by the school as set forth in Section 1175.1145; or, for those retaking the Department examination after 2 two unsuccessful attempts, official transcripts showing successful completion of remedial training (60 hour refresher course) as required by Section 3C-7 of the Act;

2) Proof of any name change (i.e., marriage license, divorce decree,

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affidavit or court order) if a different name appears on supporting documents;

3) A complete work history since graduation from a nail technology school or a cosmetology school approved to teach nail technology; and

4) The required fee set forth in Section 1175.100 of this Part pursuant-to-Section-1175.100(a)(2).

c) An applicant who has graduated from a nail technology program in another jurisdiction with less than 350 hours may acquire a maximum of 50 hours of nail technology training from a licensed Illinois cosmetology school.

(Source: Amended at 21 Ill. Reg. 12 27 11, effective 2 27 11)

## Section 1175.1005 Examination - Nail Technology Teacher

a) Eligibility. Each applicant must meet the following requirements pursuant to Section 3C-3 of the Act prior to filing an application for the nail technology teacher examination:

- 1) Be is at least 18 years of age;
- 2) Have Has graduated from high school or its equivalent;
- 3) Hold Holds a current license certificate--of--registration as a registered cosmetologist or nail technician; and
- 4) Either:
  - A) Have Has completed 500 hours of teacher training in an approved cosmetology or nail technology school with-at-least 150-hours-in-advanced-nail-technology-training and have has had at least 2 years of full-time experience as a practicing nail technician; or
  - B) Have Has completed 625 17000 hours of teacher training in a school of cosmetology approved in accordance with Section 1175.1105 or school of nail technology approved in accordance with Section 1175.1100.

b) Application. Each applicant shall file an application, on forms provided by the Department, at least 45 days prior to the examination date. The application shall include:

- 1) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if a different name appears on supporting documents;
- 2) The required fee set forth in Section 1175.100 pursuant-to-Section-1175.100(a)(2);
- 3) Either:
  - A) An official transcript from an approved school of nail technology or cosmetology showing successful completion of 500 hours of teacher training as outlined in Section 1175.535 or 1175.1140 of this Part and 2 employment verification forms showing at least 2 years of full-time

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- experience as a practicing nail technician; or
- B) An official transcript from an approved school of nail technology or cosmetology, showing successful completion of 625 17-000 hours of teacher training as outlined in Section 1175.535 or 1175.1140 of this Part;
- 4) A complete work history since graduation from a nail technology or cosmetology school; and
- 5) A copy of the applicant's current Illinois nail technology or cosmetology license; and
- 6) If the applicant is licensed in another state, a certification of licensure from the state of original licensure and from the state in which the applicant predominantly practices and is currently licensed.

(Source: Amended at 21 Ill. Reg. 727.03, effective MAY 2, 1994)

## Section 1175.1010 Examination

- a) A separate examination shall be administered by the Department or its designated testing service for nail technicians and nail technology teachers and shall cover subject matter as set forth in Section 3C-7 of the Act.

- b) The passing score on each examination is 75.

- c) Retakes for Nail Technicians
- 1) An applicant who fails to pass a third second examination for licensure as a nail technician must submit an official transcript from a cosmetology school approved to teach nail technology or a nail technology school approved by the Department showing successful completion of a 60 hour refresher course prior to taking the examination a fourth third time.

- 2) An applicant upon failing the fourth fifth examination must submit an official transcript from an approved nail technology or cosmetology school showing successful repetition of the entire course of nail technology training prior to taking the examination a fifth sixth time.

- 3) For purposes of examination retakes, the fifth sixth attempt shall count as the first.

- 4) An applicant shall make a written request for an examination retake at least 45 days in advance of the examination date. Such a request must include the required examination fee and official transcripts when further study is required in accordance with subsections (c)(1) and (2) above.

- d) Retakes for Nail Technology Teachers

- 1) An applicant who fails to pass a third examination must submit an official transcript from a licensed cosmetology school approved to teach nail technology teachers or a licensed nail technology school approved to teach nail technology showing successful

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completion of an 80 hour refresher course prior to taking the examination a fourth time.

- 2) An applicant, upon failing the fourth examination, must submit an official transcript from an approved nail technology or cosmetology school showing successful repetition of the entire course of nail technology teacher training prior to taking the examination a fifth time.

- 3) For purpose of examination retakes, the fifth attempt shall count as the first.

- 4) An applicant shall make a written request for an examination retake at least 45 days in advance of the examination date. Such a request must include the required examination fee and official transcripts when further study is required in accordance with subsections (d)(1) and (2) of this Section.

(Source: Amended at 21 Ill. Reg. 727.03, effective MAY 2, 1994)

## Section 1175.1015 Application for Licensure

- a) Applicants for licensure based on successful completion of the examination shall submit to the Department:

- 1) A completed and signed licensure application that which the applicant will receive with the notification of successful completion of the examination;
- 2) Proof of name change (i.e., marriage license, divorce decree, affidavit or court order) if different from that shown on pre-printed licensure application; and

- 3) The required fee as set forth in Section 1175.1004~~4~~27.

- b) Any cosmetology teacher cosmetology-teachers licensed in Illinois who is are applying for a nail technology teacher's license shall not be required to take the examination set forth in Section 1175.1005. An application shall be submitted to the Department that which includes:

- 1) A copy of his/her their current cosmetology and cosmetology teacher license;
  - 2) A complete work history since completion of teacher training; and
  - 3) The required fee set forth in Section 1175.100.
- c) Nothing in this Part requires a licensed cosmetologist or licensed cosmetology teacher to obtain a license to practice or to teach nail technology.

(Source: Amended at 21 Ill. Reg. 727.03, effective MAY 2, 1994)

## Section 1175.1020 Endorsement

- a) An applicant currently licensed as a nail technician in another jurisdiction and who is seeking licensure in Illinois by endorsement



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shall file an application, on forms provided by the Department, which shall include:

- 1) A certification from the jurisdiction of original licensure stating:
  - A) ~~The number of nail technology training hours received;~~
  - B) ~~A brief description of any licensure examination taken and the scores received; and~~
  - C) ~~Whether the applicant's file contains any record of disciplinary actions taken or pending;~~
- 2) Official transcripts from the school(s) attended by the applicant showing the courses completed and the hours received with the school seal affixed;
- 3) Certification of current licensure if other than original licensure;
- 4) A complete work history showing all employment since graduation from nail technology school to present;
- 5) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on attached documents;
- 6) The required fee set forth in Section 1175.100(a)(6); and
- 7) A copy of the licensing Act applicable on the date of original licensure showing requirements for licensure if requested by the Department in the application review. The Department shall make such a request if the application materials are incomplete.

An applicant who has graduated from a nail technology program in another jurisdiction with less than 350 hours may acquire a maximum of 50 hours of nail technology training from a licensed Illinois cosmetology school.

- b) An applicant currently licensed as a nail technology teacher in another jurisdiction and who is seeking licensure in Illinois as a nail technician teacher by endorsement shall file an application, on forms provided by the Department, which shall include:
  - 1) a certification from the jurisdiction of original licensure stating:
    - A) ~~The number of nail technology teacher training hours received;~~
    - B) ~~A brief description of any licensure examination taken and the scores received; and~~
    - C) ~~Whether the applicant's file contains any record of disciplinary action taken or pending;~~
  - 2) Official transcripts from the school(s) attended by the applicant showing the courses completed and the hours received with the school seal affixed;
  - 3) Certification of current licensure if other than original licensure;
  - 4) Two Verification of Employment forms submitted by the applicant who completed at least 500 hours of teacher training ~~but less than 1700 hours~~. A nail technology teacher applicant shall

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- 5) ~~Two Verification of Employment forms shall be submitted by the applicant for a nail technology teacher license who is applying on the basis of 3 years of lawful practice as a nail technology teacher in another jurisdiction;~~
  - 6) ~~A complete work history showing all employment since graduation from basic nail technology school to present;~~
  - 7) ~~Proof of name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on any of the documents submitted;~~
  - 7) ~~A copy of the applicant's current Illinois nail technology or cosmetologist license;~~
  - 8) ~~The required fee set forth in Section 1175.100(a)(6); and~~
  - 9) ~~A copy of the licensing Act applicable on the date of original licensure showing requirements for licensure if requested by the Department in the application review. The Department shall make such a request if the application materials are incomplete.~~
  - c) An applicant for licensure as a nail technician who is licensed in another jurisdiction shall be given 75 hours of educational credit for every 12 month period during which he/she was lawfully employed as a nail technician. To obtain credit for work experience, the applicant shall submit verification of employment in support of the work experience on forms provided by the Department. A certification of licensure from the jurisdiction in which the lawful practice is claimed must also be submitted.
  - d) An applicant applying for licensure as a nail technician or nail technology teacher on the basis of endorsement who has previously failed the licensing examination in Illinois shall not be approved for licensure on the basis of endorsement unless and until he/she provides verification of successful completion of a substantially equivalent licensure examination and fulfills the requirements set forth in Section 1175.1010(c). The successful completion of the substantially equivalent examination and fulfillment of applicable requalification requirements must occur after the most recently failed examination attempt in Illinois.

(Source: ~~Amended~~, at 21 Ill. Reg. 7377, effective

## Section 1175.1025 Renewals

- a) The first renewal period for licenses ~~registration~~ issued under Article 3(c) of the Act shall be October 31, 1996. Every nail technician, nail technology teacher and nail technology school license shall expire on October 31 of each even numbered year.
- b) The holder of a license ~~certificate of registration~~ may renew the license ~~that certificate~~ during the month preceding its expiration

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date.

c) Applicants for renewal as nail technicians shall:

- 1) Return a completed renewal application.
  - 2) Certify on the renewal application that they have successfully completed a minimum of 10 hours of continuing education from a nail technology continuing education sponsor approved by the Department in accordance with Section 1175.1200 of this Part, within the 2 years prior to the expiration date of the license.
- A) For the October 31, 1998, renewal, each individual who applies for renewal of a nail technician license, other than first time renewal applicants, shall be required to complete 10 hours of continuing education in accordance with Subpart L.

B) A renewal applicant is not required to comply with continuing education requirements for the first renewal after issuance of the original license.

C) The Department may require additional evidence demonstrating compliance with the CE requirements (i.e., certificate of attendance or certificate of completion). It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance. Such evidence shall be required in the context of the Department's random audit.

B) ~~Nail-technicians--who--also--hold--a--nail-technology-teacher--license--may--elect--to--obtain--the--continuing--education--hours--from--a--nail-technology-teacher--continuing--education--sponsor--approved--by--the--Department--in--accordance--with--Section--1175.1200--of--this--Part--These--hours--if--applied--toward--the--fulfillment--of--subsection--(b)(2)(A)--above--cannot--also--be--used--toward--the--fulfillment--of--the--nail--technology--teacher--continuing--education--requirement--in--addition--the--hours--must--be--earned--during--the--appropriate--renewal--period--~~

3) Submit the required fee set forth in Section 1175.1004(f)(3).

d) Applicants for renewal as nail technology teachers shall:

- 1) Return a completed renewal application.
- 2) Certify on the renewal application that they have successfully completed to ~~successful~~ completion of a minimum of 20 10 hours of continuing education from a nail technology teacher continuing education sponsor approved by the Department, in accordance with Section 1175.1200 of this Part, within the 2 years prior to the expiration date of the license.

A) For the October 31, 1998, renewal, each individual who applies for renewal of his/her nail technology teacher license, other than first time renewal applicants, shall be required to complete 20 10 hours of continuing education in accordance with Subpart L. Ten of the hours shall be in teaching methodology, educational psychology and classroom management or other subjects related to teaching.

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B) A renewal applicant is not required to comply with continuing education requirements for the first renewal after issuance of the original license.

C) The Department may require additional evidence demonstrating compliance with the continuing education requirements (i.e., certificate of attendance or certificate of completion). It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance. Such evidence shall be required in the context of the Department's random audit.

3) Submit the required fee set forth in Section 1175.1004(f)(3).

e) It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to renew a license.

f) Practicing or operating on a license that which has expired shall be considered unlicensed activity and shall be grounds for discipline pursuant to Section 4-7 of the Act.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1175.1030 Restoration - Nail Technician

a) A person applying for restoration of a nail technician license that which has been expired for less than 5 years shall submit an application on forms provided by the Department; and:

- 1) Pay the required fee as set forth in Section 1175.1004(f)(4); and
- 2) Provide evidence of successful completion of 10 hours of continuing education in accordance with Section 1175.1200(c).

b) A person applying for restoration of a nail technician license that which has been expired for 5 years or more shall submit an application on forms provided by the Department along with:

- 1) Verification of employment, attesting to lawful practice in another jurisdiction within the 5 years preceding application for restoration;

2) Certification from the appropriate licensing authority in the jurisdiction in which lawful practice is claimed. An applicant for restoration who has not maintained lawful practice (as determined by the laws of that jurisdiction) in another jurisdiction shall also submit official transcripts showing successful completion of a 60 hour nail technology refresher course from an approved cosmetology or nail technology school or pass the examination set forth in Section 1175.1001 within 2 years prior to or within 2 years after the restoration application. An applicant who completes this refresher course or takes the examination shall not also be required to complete 10 hours of continuing education;

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- 3) A complete work history showing all employment since the Illinois license lapsed;
  - 4) A completed Restoration Questionnaire;
  - 5) Evidence of successful completion of 10 hours of continuing education earned within the 2 years immediately preceding restoration; and
  - 6) The required fee as set forth in Section 1175.1004+4+7.
- c) If restoring after active military service, the applicant shall submit a copy of his/her Honorable Discharge form (DD-214) and the current renewal fee.
- d) If an applicant takes and fails the examination, the license will not be restored until such time as he/she has successfully completed the examination.

(Source: Amended at 21 Ill. Reg. 12077, effective 12/1/04.)

## Section 1175.1035 Restoration - Nail Technology Teacher

- a) A person applying for restoration of a nail technology teacher license that which has been expired for less than 5 years shall submit an application on forms provided by the Department; and:
    - 1) Pay the required fee as set forth in Section 1175.1004+4+7-of-the-Act; and
    - 2) Provide evidence of successful completion of 20 10 hours of continuing education in accordance with Sections 1175.1200 and 1175.1210 of this Part Section-1175.1200+4+7.
  - b) A person applying for restoration of a nail technology teacher license that which has been expired for 5 years or more shall submit an application on forms provided by the Department along with:
    - 1) Verification of employment, attesting to lawful nail technology teaching practice in another jurisdiction within the 5 years preceding application for restoration;
    - 2) Certification from the appropriate licensing authority in the jurisdiction in which lawful practice is claimed. An applicant for restoration who has not maintained lawful practice (as determined by the laws of that jurisdiction) in another jurisdiction shall also submit official transcripts showing successful completion of a 250 hour nail technology teacher refresher course from an approved cosmetology or nail technology school or pass the teacher examination set forth in Section 1175.1005 within 2 years prior to or within 2 years after the restoration application. An applicant who completes this refresher course or takes the examination shall not also be required to complete 20 10 hours of continuing education;
- 3) A complete work history showing all employment since the Illinois license lapsed;
- 4) A completed Restoration Questionnaire;

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- 5) Evidence of successful completion of 10 hours of continuing education earned within the 2 years immediately preceding restoration; and
  - 6) The required fee as set forth in Section 1175.1004+4+7.
- c) If restoring after active military service, the applicant shall submit a copy of his/her Honorable Discharge form (DD-214) and the current renewal fee.
- d) If an applicant takes and fails the examination, the license will not be restored until such time as he/she has successfully completed the examination.

(Source: Amended at 21 Ill. Reg. 12077, effective 12/1/04.)

## SUBPART K: NAIL TECHNOLOGY SCHOOLS

## Section 1175.1100 Nail Technology School Application

- a) An applicant for a nail technology school license shall submit a completed application to the Department with the following information and documentation:
  - 1) A detailed floor plan consistent with requirements of Section 1175.1110(a)(1) of this Part;
  - 2) A copy of a lease showing at least a 1 one year commitment to the use of the school site or certification of ownership of the proposed school site;
  - 3) If the owner is a corporation, a copy of the Articles of Incorporation;
  - 4) If the owner is a partnership, a listing of all partners and their current addresses;
  - 5) A signed fire inspection report from the local fire authority within 6 months prior to the application giving approval for use of the site as a school;
  - 6) A certified financial statement prepared by a licensed public accountant who is not an employee of the school, indicating sufficient current finances exist to operate the school for at least 3 months; A-completed-financial-statement-of-assets-liabilities-and-net-worth-showing-the-owner's-ability-to-operate-the-school-for-at-least-3-months-as-evidenced-by-the-owner's-signature-certifying-the-information-is-true;
  - 7) A copy of the official enrollment agreement student-contract to be used by the school that which shall be consistent with the requirements of Section 1175.1115 of this Part;
  - 8) A listing of all nail technology and cosmetology teachers, including their teacher license numbers, who will be in the school's employ;
  - 9) A copy of the curriculum that will be followed;
  - 10) A copy of the school's official transcript; and



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- 11) The required fee set forth in Section 1175.100.
- b) When the above items have been received, the Department shall inspect the school premises, prior to school approval, to determine compliance with this Subpart. School operations shall not begin nor shall the school in any way solicit student enrollment until the school has received written notice of approval from the Department. Approval shall be granted if all the requirements of Subpart K have been met.
- c) Nail technology schools shall only offer instruction in nail technology and nail technology teacher education.

(Source: Amended at 21 Ill. Reg. 1273, effective MAY 23 1994)

## Section 1175.1105 Cosmetology Schools Approved to Teach Nail Technology

- a) Existing cosmetology schools that wish to provide nail technology instruction shall:

- 1) Provide at least 200 square feet of space to accommodate 5 five work stations. If attendance exceeds 10 on the clinic floor at any time, an additional 30 square feet is required for each additional work station required by subsection (a)(4)(A) below. For--enrollment-over-10, the school must provide an additional 40 square feet which includes a work station and patron chair. The use of this space shall not reduce the square footage for the conduct of an approved cosmetology school below the minimum requirements set forth in this Part.

- 2) File an application with the Department, on forms provided by the Department, that which shall include:

- A) A detailed floor plan;
- B) A signed copy of a fire inspection report from the fire inspection authority within 6 months prior to the application giving approval for use of the site as a school;
- C) A financial statement prepared by a public accountant licensed by the Department pursuant to the Illinois Public Accounting Act who is not an employee of the school, indicating sufficient current finances exist to operate the school for at least 3 months; A--completed--financial statement--of--assets--liabilities--and--net--worth--showing--the owner's--ability--to--operate--the--school--for--at--least--3--months as--evidenced--by--the--owner's--signature--certifying--the information--is--true;
- D) A copy of the enrollment agreement student's--contract to be used by the school;
- E) A copy of the nail technology curriculum;
- F) A listing of all nail technology and cosmetology teachers, including their teacher license numbers, who will be in the school's employ;
- G) A copy of the school's official transcript; and

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- H) The required fee set forth in Section 1175.100.
- 3) When the above items have been received, the Department shall inspect the school premises, prior to approving the school, to determine compliance.

- 4) In addition, the school shall meet the following:

- A) At least 1 one patron work station, including patron chair, manicuring table and student chair, for every 2 students enrolled.
  - B) Every work station shall have a disinfectant tray and disinfectant solution.
  - C) Provide a nail technology curriculum in accordance with Sections 1175.1135 and 1175.1140.
- b) Cosmetology schools approved to teach nail technology shall be required to comply with all provisions in this Part except Section 1175.1110(a) and (b).

(Source: Amended at 21 Ill. Reg. 1273, effective MAY 23 1994)

## Section 1175.1110 Physical Site Requirements

- a) Space Requirements

- 1) A nail school shall have a minimum of 500 square feet of work space for a maximum of 10 students. An additional 30 40 square feet is required for each additional work station if attendance exceeds 10 students in the clinic area at any given time.
- 2) Work space shall include the dispensary area but shall not include classrooms, restrooms, halls, checkrooms, locker space, storage areas, student lounge, cloak space, public waiting area or other areas or facilities for administration.
- 3) The school shall be partitioned to provide for the following areas:

- A) Dispensary area
- B) Classrooms
- C) Separate restrooms for males and females
- D) Cloak space
- E) Public A--public waiting area separated from the work area
- F) Student A--student lounge area
- G) Storage space
- H) Locker space
- I) Other areas for school administration
- J) Work stations.

- 4) All areas of the school shall be ventilated and lighted.
- b) Equipment Requirements - All equipment shall be in working condition and sufficient for the number of students enrolled. Minimum requirements for school equipment are A--school--shall--have--the following--equipment:

- 1) An entrance sign designating the name of the school;

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- 2) A school seal;
- 3) A time clock or other equipment necessary for verification of attendance and hours earned;
- 4) A minimum of 5 patron work stations. For enrollment over 10, 1 one patron work station per 2 two students;
- 5) Every patron work station shall include a patron chair, manuring table and student chair for every 2 students enrolled;
- 6) Every patron work station shall have a disinfectant tray and disinfectant solution;
- 7) Trays for nail technology supplies;
- 8) Eye guards for patrons and students;
- 8) Eye guards, protective protective garments and masks should be available for to-be-worn-by patrons and students upon request; when--nail--chemicals--are--used--according--to--manufacturer's instructions;
- 9) Desk/table space and a chair for each student in the classroom;
- 10) Adequate number of covered waste and linen disposal cans placed at convenient locations;
- 11) Closed cabinets for storing clean towels; and
- 12) A mannequin hand for each student.

## c) Sanitary Regulations

- 1) Clean outer garments must be worn at all times.
- 2) All instruments shall be disinfected before and after use on each patron.
- 3) Clean towels shall be used for each patron.
- 4) Hands must be cleansed with an antimicrobial agent before and after serving each patron.
- 5) After use on each patron, implements and electrical equipment must be disinfected according to manufacturer's specifications. All other equipment should be washed in water and sanitized before use.
- 6) Manicuring table coverings must be disposed of or laundered and sanitized after each patron.
- 7) All products cosmetics shall be kept in clean, closed containers and be applied by sanitary applicators.
- 8) All nail chemicals must be kept in labeled containers.
- 9) No owner, manager, teacher or school administrator shall knowingly permit any person suffering from a serious communicable disease as defined in 77 Ill. Adm. Code 690 to work on the premises or knowingly permit a student to serve a patron with a serious communicable disease.
- 10) No animals or pets, except seeing eye/hearing dogs, shall be permitted on school premises.
- 11) The floors, walls and furniture shall be kept clean at all times.
- 12) An adequate supply of hot and cold running water shall be available for school operation.
- d) Textbooks/Teaching Materials - Textbooks shall be provided for each student in attendance.

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- e) Teachers - The student/teacher ratio during clinical instruction shall not exceed a 20 to 1 ratio.

(Source: Amended at 21 Ill. Reg. 100.073, effective MAY 23 1997)

## Section 1175.1115 Enrollment Agreements and Refund Policies Student-Contracts

- a) All licensed nail technology schools shall have enrollment agreements that meet the requirements of Section 3B-12 of the Act.
- b) All licensed nail technology schools shall implement refund policies pursuant to Section 3B-13 of the Act and this Part.
- 1) When notice of cancellation is given after the fifth day following enrollment but before the completion of the student's first day of class attendance, the school may retain no more than the application and registration fee, plus the cost of any books or materials which have been provided by the school and retained by the student (Section 3B-13(b)). The cost of books for purposes of refunds is the cost of the books charged to the student, not the cost of the books to the school.
- 2) For students who enroll in and begin classes, tuition adjustment shall be made in the following manner:

PERCENTAGE TIME TO TOTAL TIME OF COURSE	AMOUNT OF TOTAL TUITION OWED TO THE SCHOOL
0.01% to 4.9%	10%
5% to 9.9%	30%
10% to 14.9%	40%
15% to 24.9%	45%
25% to 49.9%	70%
50% and over	100%

- a) All contracts entered into with students or prospective students by an approved nail technology school or cosmetology school approved to teach nail technology shall be clearly labeled as a contract and shall include the following information:
- 1) The name and address of the school;
- 2) The date the contract was signed by the student and the date the student was admitted;
- 3) The name and description of the course of instruction, including the number of clock hours in each course and an approximate number of weeks or months required for completion;
- 4) The scheduled starting date and calculated completion date;
- 5) A clear and conspicuous caption, "BUYER'S RIGHT TO CANCEL", under which it is explained that the student has the right to cancel the initial enrollment agreement until midnight of the fifth business day after the student has been enrolled, and if notice

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of the right to cancel is not given to any prospective student at the time the enrollment agreement is signed, then the student has the right to cancel the agreement at any time and receive a refund of all monies paid to date within 10 days after cancellation;

6) A notice to the students that the cancellation must be in writing and given to the registered agent, if any, or managing employee of the school;

7) The name of the school employee or agent responsible for procuring, soliciting or enrolling the student;

8) A clear statement that the institution does not guarantee employment and a statement describing the school's placement assistance procedures;

9) The graduation requirements of the school;

10) The total cost of the course of instruction including any charges made by the school for tuition, books, materials, supplies and other expenses;

11) A clear and conspicuous statement that the contract is a legally binding instrument when signed by the student and accepted by the school;

12) A clear and conspicuous statement that if an approved natl technology school transfers any contract or interest in the contract to another party, the student has the same rights afforded to him or her by the transferee as by the transferor;

13) The contents of the following notice in at least 10 point bold type:

## "NOTICE TO THE STUDENT"

"Do not sign this contract before you read it or if it contains any blank spaces.

You are entitled to an exact copy of the contract--you sign."

14) A clear and concise statement of the school's refund policy for unearned tuition fees and other charges;

15) A written statement either in the enrollment agreement or separately provided and acknowledged by the student, indicating the number of students who did not complete the course of instruction for which they enrolled for the past calendar year as compared to the number of students who enrolled in school during the school's past calendar year;

16) The following clear and conspicuous caption: "COMPLAINTS AGAINST THIS SCHOOL MAY BE REGISTERED WITH THE DEPARTMENT OF PROFESSIONAL REGULATION", set forth with the address and telephone number of the Department's Chicago and Springfield offices;

17) If the enrollment or student contract is negotiated orally in a language other than English, then copies of the above disclosures shall be tendered in the language in which the contract was negotiated prior to executing the enrollment agreement;

The school shall comply with all applicable requirements of the Retail

b)

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Instatement--Sales--Act--(Ill--Rev--Stat--1991--ch--121--1/2--pars--501 through 506)--(015-1565-405)--in its student contracts:

c) No student contract shall contain a wage assignment provision or a confession of judgment clause;

d) Any provision in a student contract that purports to waive the student's right to assert against the school or any assignee, any claim or defense he may have against the school arising under the contract shall be void;

(Source: Amended at 21 Ill. Reg. effective )

## Section 1175.1125 Recordkeeping - Transcripts

a) Each school shall provide an official transcript showing the entire course work of each student. The official transcript shall contain the following information:

1) School School's name and address;

2) School seal;

3) School license number;

4) Signature of the owner, registrar or director of the school;

5) Student's name, address and social security number;

6) Actual dates student attended;

7) Subject areas, hours earned and grades received;

8) Any transfer hours, citing the name and address of the school transferred from, subject areas, hours earned and grades received;

9) Final examination grades; and

10) Graduation date.

b) The official transcript and school records for each student shall be permanently maintained by the school in the following manner:

1) If maintained on the school premises, they shall be maintained in a locked, fire-resistant fireproof cabinet. If official transcripts are maintained on a computer system, history tapes or discs of all official records must be stored in a locked, fire-resistant fireproof cabinet.

2) If records cannot be maintained on the premises in locked, fire-resistant fireproof cabinets, duplicate student records, including the official transcripts, shall be maintained at a separate location that which shall be made known to the Department. Such records shall be accessible to Department officials for inspection.

c) A copy of the transcript shall be given to the student upon graduation or other permanent exit from the school provided the student has met all financial obligations in the enrollment agreement student contract as set forth in Section 1175.1115.

d) An official transcript and school records for students who withdrew or dropped out of a program shall be maintained by the school for 7 years



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from the student's first day of attendance at the school.

(Source: Amended at 21 Ill. Reg. 7277, effective 11/1/85)

## Section 1175.1130 Recordkeeping - Hours Earned

- a) A complete and accurate record of hours of attendance for each student must be recorded and maintained by the school.
- b) If a time clock is used, each student shall punch his/her own time card. No student, teacher or any other person shall punch the time card of another student. If a time clock is not used, there shall be another verifiable method used by the school to record student hours. The records must be in a form that which allows the student to receive a written report of hours earned. This report of hours earned shall be provided to the student on a monthly basis.
- c) Credit for hours earned away from the school premises shall be awarded only if students are supervised by a licensed instructor or by a licensed nail technician or a licensed cosmetologist in the case of an internship. Credit hours for outside study may include workshops, educational programs, film films--and demonstrations and internship training in a registered salon.
- d) Hours earned away from the school premises shall be recorded on school time forms. These forms shall include: the school seal, name of student, event or program attended, date attended, signature of student, and signature of supervising, licensed instructor.
- e) Instructors shall review monthly the hours earned by each student. Each month the instructor shall issue a signed written report to the student showing the actual number of hours earned by the student.
- f) Time cards may be destroyed upon the student's permanent exit from the school and after all hours earned are recorded on the official transcript. The transcript shall be retained indefinitely.
- g) An hour is not less than 50 nor more than 60 minutes of instruction.
- h) A licensed instructor shall provide on-site supervision for supervise all classroom, practical and clinical instruction study. No credit shall be given for unsupervised study.

(Source: Amended at 21 Ill. Reg. 7277, effective 11/1/85)

## Section 1175.1135 Curriculum Requirements - Nail Technology

- a) Each licensed cosmetology school teaching a nail technology curriculum and each licensed nail technology school shall provide a minimum of 350 hours of course instruction as follows:

- 1) Basic Training ~~General-theory-and-practical~~ application - 50 85 hours of classroom instruction in general theory practical application (i.e., practicing nail technology on the public) and

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technical application (e.g., practicing the technical application on a mannequin finger(s) ~~finger~~ or on the finger(s) ~~finger~~ of another student) shall be provided in the following subject areas:

- A) History of nail care;
  - B) Personal hygiene and public health;
  - C) Professional ethics;
  - D) Sterilization and disinfection;
  - E) Bacteriology;
  - F) Disorders of the nails;
  - G) OSHA standards relating to material safety data sheets (MSDS) ~~(MSDS)~~ on chemicals;
  - H) Chemicals and their use; and
  - I) Technical applications of chemicals.
- 2) Related concepts - 15 hours of classroom instruction shall be provided in the following subject areas:
    - A) Cells, metabolism and body systems;
    - B) Theory of massage; and
    - C) People skills.
  - 3) Practices and Procedures - 255 ~~220~~ hours of instruction, which shall be a combination of classroom instruction and clinical practical application, shall be provided in the following subject areas:
    - A) Fabric procedures;
    - B) Sculpting procedures;
    - C) Light cured gels;
    - D) Machines or apparatus used in nail technology;
    - E) Manicures;
    - F) Pedicures;
    - G) Hand, arm and foot massage Arm-and-Foot-Massage;
    - H) Other procedures as they relate to nail technology; and
    - I) Product knowledge as it relates to nail technology.
  - 4) Business Practices - 30 hours of classroom instruction shall be provided in the following subject areas:
    - A) Illinois Barber, Cosmetology, Esthetics, and Nail Technology Act and Rules;
    - B) Management;
    - C) OSHA standards relating to chemical use; and
    - D) Workers' Compensation Act.

- 5) Internship Program is an optional part of the curriculum. Each licensed nail technology school may choose to set up an internship program and shall follow the guidelines set forth below.

- A) An internship program:
  - i) May be substituted for 35 hours of the 350 hours set forth in this subsection (a).
  - ii) May be part of the curriculum of a licensed nail technology school and shall be an organized preplanned

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training program designed to allow a student to learn nail technology under the direct supervision of a licensed cosmetologist or licensed nail technician in a registered salon.

## B) A student in the internship program:

- i) May participate in an internship only after completing 175 hours of training and have a minimum average grade of 80. A school may set the average grade higher and set other standards that a student must meet to participate in the internship program.

- ii) May not spend more than 35 hours in an internship program.

- iii) May not be paid while participating in the internship program as it is a part of the nail technology curriculum of the school.

- iv) May work a maximum of 8 hours a day and shall be required to spend 1 day a week at the school.

- v) Shall be under the direct on-site supervision of a licensed cosmetologist or licensed nail technologist. Only 1 student shall be supervised by 1 licensed cosmetologist or licensed nail technologist.

## C) A licensed nail technology school shall state clearly in the student contract that the school offers an internship program.

- D) The licensed nail technology school shall enter into a contract with the student, the registered salon and licensed cosmetologist or licensed nail technologist that contains all of the provisions set forth in this Section and any other requirements of the internship established by the school. The contract shall be signed by the student, the school and the licensed cosmetologist or licensed nail technologist. Any party to the contract may terminate the contract at any point.

- b) A nail technology student is not permitted to practice on the public until he/she has successfully completed the 50 95 hours of general theory and practical application specified in subsection (a)(1) above.

(Source: Amended at 21 Ill. Reg. 12.077, effective July 2, 1993)

## Section 1175.1140 Curriculum Requirements - Nail Technology Teacher

- a) An approved school that which intends to provide teacher training must utilize a teacher curriculum that which includes a minimum of 625 7000 hours as follows:

- 1) 125 350 hours of Post-Graduate School Training that which includes all subjects in the basic nail technology curriculum in Section 1175.1135, including theory and practice. Presentation

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of material must include the concepts that are intended to be taught and the skills to be acquired during the various phases of basic education.

- 2) 159 hours of advanced nail technology training as defined in Section 1175.1095(e)(4)(A):

- 2) 20 hours of Educational Psychology which shall include, but not be limited to, topics in educational objectives, student characteristics and development, the learning process and an evaluation of learning that which relates to teaching. This course shall be presented by a person qualified to teach educational psychology at the college level or a licensed cosmetologist or nail technology teacher who has completed a course of instruction which included the topics set forth above or an equivalent program. These hours shall be waived on behalf of nail technology teacher students who have completed a course in Educational Psychology at an accredited college or university. Within the five years immediately preceding admission to the nail technology program:

- 3) 4) 20 hours of Teaching Methods (Theory) that which shall include, but not be limited to, topics in individual differences in learning, lesson planning and design, lesson delivery, assessment of learning performance, classroom management, student motivation and classroom climate. This course shall be presented by a person qualified to instruct in teaching methods or a licensed cosmetologist or nail technology teacher who has completed a course of instruction which included topics set forth above or an equivalent program. These hours shall be waived on behalf of nail technology students who have completed a course in Teaching Methods - Secondary Level at an accredited college or university. Within the five years immediately preceding admission to the nail technology teacher program:

- 4) 5) 150 hours of Application of Teaching Methods that include which includes: preparation and organization of subject matter to be presented on a unit by unit basis; and presentation of subject matter through application of varied methods (lecture, demonstration, testing and assignments). Presentations must provide teaching objectives to be accomplished and correlate theoretical with practical application.

- 5) 6) 50 hours of Business Methods that which include: inventory, recordkeeping, record-keeping, interviewing, supplies, the Illinois Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985 and 68 Ill. Adm. Code 1175.

- 6) 7) 260 hours of Student Teaching under the on-site direct supervision of an Illinois licensed teacher. The student teacher shall present theoretical and practical demonstrations to students in the basic curriculum.

- b) The approved curriculum for a 500 hour Teacher Training Course shall

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be based upon 2 years of practical experience and shall consist of Teacher Training Curriculum outlined in Section 1175.1140 with the exception of the 125 hours of Post-Graduate Training. provided-for-in Section 36-3(d)(1) of the Act shall consist of:

- 1) 150--hours--of--advanced--nail--technology--training--as--defined--in Section 1175.1005(a)(4)(A);
- 2) 20--hours--of--Educational--Psychology--which--shall--include--but--not be--limited--to--topics--in--educational--objectives--student characteristics--and--development--the--learning--process--and--an evaluation--of--learning--which--relates--to--teaching--this--course shall--be--presented--by--a--person--qualified--to--teach--educational psychology--at--the--college--level--or--a--licensed--cosmetology--or--nail technology--teacher--who--has--completed--a--course--of--instruction which--included--the--topics--set--forth--above--or--an--equivalent program--these--hours--shall--be--waived--on--behalf--of--nail technology--teacher--students--who--have--completed--a--course--in Educational--Psychology--at--an--accredited--college--or--university within--the--5--years--immediately--preceding--admission--to--the--nail technology--program;
- 3) 20--hours--of--Teaching--Methods--(theory)--which--shall--include--but not--be--limited--to--topics--in--individual--differences--in--learning lesson--planning--and--design--lesson--delivery--assessment--of learning--performance--classroom--management--student--motivation and--classroom--climate--This--course--shall--be--presented--by--a person--qualified--to--instruct--in--Teaching--Methods--Second--level--at--a--college--or--university--or--a--licensed--cosmetology--or--nail technology--teacher--who--has--completed--a--course--of--instruction which--included--topics--set--forth--above--or--an--equivalent--program--these--hours--shall--be--waived--on--behalf--of--nail technology--students who--have--completed--a--course--in--Teaching--Methods--Second--level at--an--accredited--college--or--university--within--the--five--years immediately--preceding--admission--to--the--nail--technology--teacher program;
- 4) 100--hours--of--Application--of--Teaching--Methods--which--includes preparation--and--organization--of--subject--matter--to--be--presented--on a--unit--by--unit--basis--and--presentation--of--subject--matter--through application--of--varied--methods--(lecture--demonstration--testing and--assignment)--Presentations--must--provide--teaching--objectives to--be--accomplished--and--correlate--theoretical--with--practical application;
- 5) 10--hours--of--Business--Methods--which--include--inventory--record keeping--interviewing--supplies--the--Illinois--Barber Cosmetology--Ethetics--and--Nail--Technology--Act--of--1985--and--60 III--Adm--Code--1175;
- 6) 200--hours--of--Student--Teaching--under--the--direct--supervision--of--an Illinois--licensed--teacher--The--student--teacher--shall--present theoretical--and--practical--demonstrations--to--students--in--the--basic curriculum;

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(Source: Amended at 21 Ill. Reg. ~~120.173~~, effective MAY 2, 1994)

## Section 1175.1145 Final Examination

- a) A school shall require each candidate for graduation to pass a final examination which shall test the student's theoretical and practical knowledge of the curriculum studied.
- b) The practical examination shall test the candidate's skills in the following areas:
  - 1) Acrylic free form and overlay procedures;
  - 2) Manicure;
  - 3) Pedicure;
  - 4) Gel;
  - 5) Wrap procedures; and
  - 6) Safety and sanitation procedures.
- c) The examination shall be administered by the uniform application of standard performance criteria established by the school for each skill area. The standard performance criteria for each skill area shall be delineated in the examination records as specified in subsection (h) below.
- d) A passing score of 75 or greater shall be required on both the theoretical and practical portions of the final examination.
- e) The school shall allow each candidate for graduation at least 3 attempts to pass the final exam.
- f) The Department may monitor the administration of the final examination:
  - 1) As a result of a complaint received;
  - 2) For random sampling;
  - 3) To collect data; and/or
  - 4) When the failure rate on the licensure examination for school graduates is greater than 25%.
- g) The Department shall maintain records of each school's graduate failure rate on the licensing examination. The records shall reflect only first examination attempts for each graduate. The examination results shall not count toward the failure rate on the licensing examination if the student transfers to the school from a closed school with one-half or more of the required hours for graduation. The Department shall review the records on an annual basis to identify those approved schools which have an average annual failure rate greater than 25%. An average annual review of the records shall commence one year from the effective date of this Part.
- h) The school shall maintain records of the final examination for a period of no less than 5 years in the manner prescribed in Section 1175.1125(b) of this Part. These records shall include:
  - 1) A copy of the final examination administered; and
  - 2) Each student's examination grades.



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(Source: Amended at 21 Ill. Reg. 7273, effective May 23, 1994)

## Section 1175.1150 Change of Ownership

a) When the ownership of an approved school changes, the new owner shall, within 5 working days from the date title to the school is transferred, mail to the Department the following:

- 1) An affidavit stating that the contract is contingent on a certificate being issued to the new owner. If this is not provided, the school must close on the date of the transfer and remain closed until a new certificate is issued;
- 2) A signed and completed school application;
- 3) A floor plan if any expansion is to be done by the new owner;
- 4) A copy of a lease agreement showing at least a 1 one year commitment or certification of school site ownership;
- 5) A copy of the enrollment agreement student-contract that will be utilized by the new owner;
- 6) If the owner is a corporation, a copy of the Articles of Incorporation;
- 7) If the owner is a partnership, a listing of all partners and their addresses;
- 8) A signed inspection report by the local fire inspection authority within 6 months prior to application approving the school site;
- 9) A certified financial statement prepared by a licensed public accountant who is not an employee of the school, indicating sufficient current finances exist to operate the school for at least 3 months; A-complete-financial-statement-of-asset-liabilities-and-net-worth-showing-the-new-owner's-ability-to-operate-the-school-for-3-months-as-evidenced-by-the-owner's signature-certifying-that-the-information-is-true;
- 10) If a name change is to also occur, the new owner must submit a sample of the new school seal and a photo of the new school sign; and

11) The required fee set forth in Section 1175.1100.

b) Once the above items have been received, the Department shall conduct an inspection prior to approval of the change of ownership. Approval will be granted if all of the requirements of Subpart K have been met.

(Source: Amended at 21 Ill. Reg. 7273, effective May 23, 1994)

## Section 1175.1155 Change of Location

a) When the location of an approved school is changed, the school owner shall submit to the Department the following:

- 1) Written notice to the Department at least 30 days in advance of the school site change;

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- 2) A signed and completed school application;
- 3) A floor plan drawn to a scale specified on the drawing;
- 4) A copy of a lease agreement showing at least a 1 one year commitment or certification of ownership of the school site;
- 5) An inspection report signed by the local fire inspection authority within 6 months prior to application approving the site; and

6) The required fee set forth in Section 1175.1100.

b) Once the above items have been received, the Department shall inspect the premises to determine compliance with this Part. School operations shall not begin at the new location nor may the school in any way solicit student enrollment until the owners have received written notice of approval from the Department. Approval will be granted if all requirements of Subpart K have been met.

c) If the change of location is due to natural destruction of the original premises, a temporary site may be used to teach theory classes only.

- 1) The temporary site must be inspected prior to its use and must possess light and ventilation, tables and chairs for the number of students in a classroom, and must be clean.
- 2) The temporary site may be used for a period of 2 months. The 2 month period can be extended for good cause. Good cause includes, but is not limited to, unexpected delays in construction, delays in lease arrangements, or delays in equipment delivery.

(Source: Amended at 21 Ill. Reg. 7273, effective May 23, 1994)

## Section 1175.1165 Expansion

a) Written notice shall be given to the Department 30 days prior to any expansion of an approved school.

b) When the expansion will result in an off-site classroom location, a completed application must be submitted along with:

- 1) A detailed floor plan drawn to a scale specified on the drawing;
- 2) A copy of a lease showing at least a 1 one year commitment to the use of the site or certification of ownership of the proposed site;
- 3) A signed fire inspection report from the local fire authority within 6 months prior to application giving approval for use of the site as a classroom location;
- 4) A statement from the school owner outlining the purpose of the classroom location;
- 5) A listing of any and all additional teachers who will be added to the teaching staff as a result of the expansion;
- 6) A financial statement prepared by a public accountant licensed by the Department pursuant to the Illinois Public Accounting Act who

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is not an employee of the school, indicating sufficient current finances exist to operate the school for at least 3 months; and A financial statement of assets, liabilities and net worth which shall reflect the owner's assets and debts inclusive of costs incurred or to be incurred as a result of the expansion;

7) The required fee set forth in Section 1175.100.

An off-site classroom location is defined as a separate classroom located within 5 miles of the main school site that which serves to provide adequate space in which to train an overflow of students. A clinic may not be operated at an off-site classroom location. All school may establish only 1 one off-site classroom location. All identifying signs and materials must reflect the name of the main school.

c) When an on-site expansion is to accommodate an increased enrollment, a completed application shall be submitted along with:

- 1) A detailed floor plan drawn to a scale specified on the drawing;
- 2) A statement from the school owner outlining the purpose of expansion;
- 3) A listing of any and all additional teachers who will be added to the teaching staff as a result of the expansion; and
- 4) The required inspection fee as set forth in Section 1175.100(b)(3).

d) Upon receipt of the above items, the Department shall inspect the expansion site to determine compliance with this Part. The site shall not be used until the inspection has occurred and the owner has received written notification of approval from the Department. Approval will be granted if all of the requirements of Subpart K have been met.

(Source: Amended at 21 Ill. Reg. 602.73, effective

## Section 1175.1170 Discontinuance of Program

- a) The Department shall receive a minimum of 30 days written notice of a school's intent to discontinue its program. The notice shall include the exact location where the student records are to be stored.
- b) The school owner shall notify the Department in writing of the actual closing date of the school.
- c) All school records shall be maintained after the school closes.
- d) The school must continue to meet the requirements of the Act and this Part until the actual closing date.
- e) Each student enrolled at the time of discontinuation must be provided an official transcript of all hours earned while enrolled in the program.
- f) All refunds shall be given to students in accordance with the refund provisions set forth in the enrollment agreement student contract.

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(Source: Amended at 21 Ill. Reg. 602.73, effective MAY 2, 1990)

## Section 1175.1175 Withdrawal of Approval

a) The Department may withdraw, suspend or place on probation, pursuant to 68 Ill. Adm. Code 1110, the approval of a school of cosmetology or nail technology school when the quality of the program has been affected by, but not limited to, any of the following causes:

- 1) Gross or repeated violations of any provisions of the Act or this Part;
- 2) Fraud or dishonesty in furnishing transcripts or documentation for evaluation of the school;
- 3) Failure to meet the criteria for school approval in Section 1175.1100;
- 4) Failure to administer the final examination as specified in this Part;
- 5) Failure to maintain final examination grades for each student and a master of the examination administered as specified in this Part;
- 6) Fraud or dishonesty in providing transcripts to students who have fulfilled all obligations under Section 1175.1115;
- 7) Failure to provide transcripts to students; or
- 8) A finding by the U.S. Office of Education or Illinois Student Assistance Commission that a school has misappropriated or misused grant or loan monies or has aided in obtaining such monies by providing fraudulent or untruthful information; or
- 9) Any other violation of the Act or this Part.

b) Performance Record on Licensing Examination

- 1) When a school's graduates have a 25% or greater failure rate on the licensing examination, Department approval of a school shall be reviewed pursuant to Section 1175.1100.

- 2) The performance record of a school's graduates on the licensing examination as compared with the statewide performance record shall be considered by the Department when reviewing Department approval of a school.

- 3) The Department shall give written notice and a hearing pursuant to 68 Ill. Adm. Code 1110 when Department approval of a school is being reviewed.

(Source: Amended at 21 Ill. Reg. 602.73, effective

SUBPART L: CONTINUING EDUCATION---  
NAIL-TECHNICIAN/NAIB-TECHN0566Y-TEACHER

## Section 1175.1200 Sponsor Approval

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- a) Sponsor, as used in this Section, shall mean a accredited universities and colleges, industry or trade associations, corporate salons, franchise salons, independent salons, vocational and technical schools, cosmetology schools, and other entities (Section 4-1.5(a)) person--firm--association--corporation--or-any-other-group that have been approved and authorized by the Department to coordinate and present continuing education (CE) courses or programs for cosmetologists, cosmetology teachers, estheticians, esthetic teachers, nail technicians or nail technology teachers.
- b) A nail-technician continuing education sponsor application shall be filed with the Department to be approved as a nail-technician continuing education sponsor. The application shall include: A--nail technology--teacher--continuing-education-sponsor-application-shall-be filed-with-the-Department-to-be-approved-as-a-nail-technology--teacher sponsor--All--sponsors--shall-certify-that-they-will-comply-with-all sponsor-CE-requirements-set-forth-in-this-Subpart.
- 1) A copy of the Certificate of Attendance which shall contain the following information:
- The CE sponsor registration number, name and address;
  - Category of CE (cosmetology, nail technician, esthetics);
  - Name and license number of the participant;
  - Number of hours awarded; and
  - Course title and date of course.
- 2) A 3 hour CE course outline, including evidence of appropriate facilities, instructor qualifications and content of the course.
- 3) Name and address of the contact person responsible for all recordkeeping.
- 4) Certification that the sponsor will comply with all sponsor CE requirements set forth in this Subpart.
- 5) The required fee set forth in Section 4-1.5(d) of the Act.
- c) A CE nail-technology sponsor shall provide CE courses and programs that are organized programs of formal learning that contribute directly to a licensee's nail-technician's knowledge and ability to perform duties as a licensee nail-technician. No product sales shall be permitted during a continuing education program. After the continuing education program is concluded and the certificates of attendance are distributed to the attendees, product sales shall be permitted. (Section 4-1.5(e)(2)) A continuing education program or course must meet the following minimum requirements:
- 1) A nail-technology-course-or-program-shall-include-as-its--subject matter-one-or-more-of-the-following:
- Bioinfectant-procedures;
  - Chemical-service-procedures;
  - Illinois-Barber-Cosmetology--Esthetics--and-Nail-Technology Act-and-Rules;
  - Workers--Compensation-Act--and
  - Advanced-methods;
- 1)2) Be All-programs-shall-be developed and presented by persons with

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education, training and/or practical experience in the subject matter to be presented.

- 2)3) Include ii-programs-must-include a student evaluation of both instructor and the course.
- 3)4) Specify All-programs--shall--specify the course objectives, content, prerequisites, requirements, the licensure category for which the CE applies and the number of CE hours to be earned. Such information shall be specified in all promotional materials.
- 4) Be in the following subject areas for cosmetologists, estheticians and nail technicians:
- Advanced product chemistry and chemical interaction;
  - The use of machines and implements;
  - Sanitary procedures;
  - Hazardous chemicals;
  - Exposure minimization;
  - Updated use of implements as they relate to applicable services under this Act;
  - Advanced knowledge of the anatomy of the skin, scalp, hair and/or nails;
  - Human relations/communication skills; and
  - Management and marketing.
- 5) Be in the following subject areas for cosmetology, esthetics and nail technology teachers in addition to the areas set forth in subsection (c)(4) of this Section. (Cosmetology, esthetics and nail technology teachers are required to complete 10 of the 20 CE hours in these areas.)
- Teaching methodology;
  - Educational psychology; and
  - Classroom management.
- 6) Individual study courses (correspondence, audio or video courses) sponsored by an approved sponsor shall include an examination and a means of verification that the licensee has successfully completed such course. (See Section 1175.1210(e).)
- d) A-nail-technology--teacher--sponsor--shall--provide--CE--courses--and programs--that--are--organized--programs--of--formal--learning--which contribute-directly-to-a-nail-technology--teacher's--knowledge--and ability--to-perform-his/her-duties-as-a-nail-technician--A-continuing education-program--or--course--must--meet--the--following--minimum requirements:
- 1) A--nail-technology-teacher-course-or-program-shall-include-as-its subject-matter-one-or-more-of-the-following:
- Educational-Psychology;
  - Teaching-techniques-as-they-apply-to-the-use--of--mechanical or--electrical--apparatus-or-appliances-used-in-the-practice of-nail-technology;
  - Teaching-Methods;
  - Business-Methods;
  - Human-Relations;



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- P) Counseling-Techniques;  
 G) Student-Evaluation-Skills;  
 H) State-and-federal-laws-pertinent-to-nail-technology;  
 I) Tests-and-measurements;-and  
 J) Written-and-Verbal-Communication-Skills;  
 2) All-programs-shall-be-developed-and-presented-by-persons-with-education-training-and/or-practical-experience-in-the-subject-matter-to-be-presented;  
 3) All-programs-must-include-a-student-evaluation-of-both-the-instructor-and-the-course;  
 4) All-programs-shall-specify-the-course-objectives;-content;-prerequisites;-requirements;-and-the-number-of-CE-hours-to-be-earned;-Such-information-shall-be-specified-in-all-promotional-materials;

d) All sponsors shall verify attendance at each CE course or program. A record of attendance shall be kept for no less than 5 years. Sponsors shall give each successful participant a record of completion at the end of the course or program. All records shall include the following information: name, address and license identification number for each participant, category of CE (cosmetology, nail technician, esthetics, teacher education), number of hours awarded, course title and date of course. Sponsors may delegate recordkeeping duties to one of their members or member groups. (Section 4-1.5(a) course-titler-CE-hours-awarded;-date-of-course;-name-of-instructor-and-name-of-sponsor-  
 e) CE sponsors shall be required to renew their approval every year upon submittal of the renewal application and the required fee. The first renewal shall be December 31, 1997.  
 f) All CE programs given on or after October 1, 1996, must be given by a sponsor who has been approved by the Department to provide continuing education.

g) All sponsors approved by the Department as of December 31, 1995, will be required to submit an application, the required fee and meet the current requirements set forth in this Part and the Act to continue to provide continuing education programs on or after October 1, 1996. An approved sponsor may subcontract with individuals and organizations to provide approved programs. These persons must meet the criteria established in Section 4-1.5(e)(1) and (2). (Section 4-1.5(j)) Any time the sponsor subcontracts with a presenter, all advertisements, promotional materials and the Certificate of Attendance will bear the name, address and registration number of the sponsor. The name of the subcontractor may appear as the "presenter" but no document shall imply that the subcontractor is registered as a CE sponsor.

(Source: Amended at 21 Ill. Reg. 120 77, effective 12/31/97)

## Section 1175.1210 Credit Hours

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- a) With the exception of program hours earned under subsection (e) of this Section, an approved CE program hour shall include at a minimum 50 minutes of actual class time, exclusive of time devoted by participants to pre-class or post-class preparation.  
 b) Participants completing courses at a university or college shall receive 15 CE credit hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.  
 c) A licensee (nail-technician-or-nail-technology-teacher) who serves as an instructor, speaker or discussion leader of an approved course shall be allowed CE credit for actual presentation time. For preparation time, 1 one hour of credit will be awarded for each 2 hours of actual presentation time. Preparation time for repetitions presentations shall not receive credit. No more than 10 hours can be earned under this subsection Section during any renewal period.  
 d) Credit shall be awarded for successful completion of courses taken pursuant to continuing education requirements in another state. Credit hours shall be awarded as stated in subsections (a), (b) and (c) above.  
 e) Renewal applicants may earn a maximum of 50% of the total hours required for each renewal through completion of individual study courses (see Section 1175.1200(c)(6)).  
 f) Continuing Education Earned in Other States. If a licensee has earned CE hours in another state or territory for which he/she will be claiming credit toward full compliance in Illinois, the applicant shall submit an out of state CE approval form along with a \$10 processing fee within 90 days after completion of the course. The Committee shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.

(Source: Amended at 21 Ill. Reg. 120 77, effective 12/31/97)

## Section 1175.1215 Waiver of Continuing Education Requirements

- a) Any renewal applicant seeking renewal of a license or certificate without having fully complied with these CE requirements shall file with the Department a renewal application along with the required renewal fee, a statement setting forth the facts concerning such noncompliance, a request for waiver of the CE requirements on the basis of such facts and, if desired, a request for an interview before the Committee. If the Department finds from such statement or any other evidence submitted or upon recommendation of the Committee, that good cause has been shown for granting a waiver of the CE requirements, or any part thereof, the Department shall waive enforcement of such requirements for the renewal period for which the applicant has applied.

- b) Good cause shall be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal

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period because of:

- 1) Full-time service in the armed forces of the United States of America during a substantial part of such period;
- 2) An incapacitating illness documented by a currently licensed physician; or
- 3) Hardship as defined in Section 3-7 of the Act:
  - A) The licensee resides in a locality where it is demonstrated that the absence of opportunities for such education would interfere with the ability of the licensee to provide services to the public.
  - B) That to comply with the continuing education requirements would cause a substantial financial hardship on the licensee.

c) A licensed cosmetologist or cosmetology teacher who has held a license for 30 years and does not regularly work as a cosmetologist or cosmetology teacher for more than 16 hours per week or is at least 62 years of age shall not be required to comply with the continuing education requirements.

d) If an interview is requested at the time the request for such waiver is filed with the Department, the renewal applicant shall be given at least 20 days written notice of the date, time and place of such interview by certified mail, return receipt requested.

(Source: Amended at 21 Ill. Reg. 6 5 7 7, effective 6 2 6 6)

## SUBPART M: SHOP REGISTRATION

## Section 1175.1300 Application for a Barber Shop or Cosmetology, Nail Technician or Esthetics Salon Certificate of Registration

a) Pursuant to Article IIID of the Act, all cosmetology, nail technician or esthetics salons and barber shops shall obtain a certificate of registration from the Department in order to operate in Illinois. A shop shall file an application with the Department, on forms supplied the Department. The application shall include the following:

- 1) Shop name, street and city address and home telephone number;
- 2) Shop owner's name, home address and telephone number;
- 3) If a partnership, a copy of the partnership agreement and all partners' home addresses and phone numbers; and
- 4) If a corporation, a copy of the Articles of Incorporation as filed with the Illinois Secretary of State and a list of all corporate officers and managers.

b) A separate certificate of registration is required for each shop location and a separate application shall be submitted to the Department.

c) Change of location. All registered shops/salons shall notify the Department of any change of address. The certificate of registration

## DEPARTMENT OF PROFESSIONAL REGULATION

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shall be returned to the Department and a new certificate of registration will be issued with the new address for a fee of \$20. Change of Ownership. When the ownership of the shop changes, the new owner shall be required to file a new application for a certificate of registration with the Department pursuant to Section 3D-5(c) of the Act.

(Source: Added at 21 Ill. Reg. 6 5 7 7, effective 6 2 6 6)

## DEPARTMENT OF PUBLIC AID

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- 1) Heading of the Part: Aid to Families with Dependent Children
- 2) Code Citation: 89 Ill. Adm. Code 112
- 3) Section Numbers:  
112.10 Adopted Action:  
112.340 Amendment  
Repeal
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and P.A. 89-131.
- 5) Effective Date of Amendments: May 31, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: May 31, 1997
- 9) Notice of Proposal Published in Illinois Register:  
January 10, 1997 (21 Ill. Reg. 549) and  
January 24, 1997 (21 Ill. Reg. 1154)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: The following change was made in the text of the proposed amendments:

Section 112.10

Section 112.10(b)(1)(A) was changed as follows:

- A) A United States veteran honorably discharged and a person on active military duty, and the spouse and unmarried dependent children of such a person;

No other changes were made in the text of the proposed amendments.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect?  
No
- 14) Are there any Amendments pending on this Part? Yes

Sections Proposed Action Illinois Register Citation

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## NOTICE ADOPTED AMENDMENTS

- 112.352 Amendment January 17, 1997 (21 Ill. Reg. 797)
- 112.354 Amendment January 17, 1997 (21 Ill. Reg. 797)

15) Summary and Purpose of Amendments:Section 112.10

The Department is revising its rules on the eligibility for assistance of non-citizens based on the new requirements under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 enacted August 22, 1996.

Illinois has adopted all options for which federal funds or federal matching is available in federal/state programs and has extended those options to fully State-funded programs as well. The following non-citizens are eligible for these programs:

1. persons lawfully admitted for permanent residence;
2. persons paroled into the United States for at least one year;
3. refugees;
4. asylees;
5. persons for whom deportation has been withheld;
6. persons granted conditional entry prior to April 1, 1980; and
7. veterans and persons on active military duty, and the spouse and unmarried dependent children of such persons.

Persons lawfully admitted for permanent residence and persons paroled into the United States for at least one year, who enter the United States on or after August 22, 1996, shall not be eligible for Department programs for five years after they enter the United States.

Companion amendments are also being adopted in Parts 113, 114 and 120.

Section 112.340

In 1990, P. A. 86-1457 (House Bill 3164) required the Department to expedite cash assistance benefits for qualified applicants being discharged from Department of Corrections' (DOC) facilities. As a result, the Department implemented New Start payments to individuals released from Department of Corrections' (DOC) facilities. Under the Department's "New Start" program, individuals released from a DOC facility who are qualified applicants and who appeared for the interview scheduled for them prior to their release by DOC were eligible to receive a one-time assistance payment, called a New Start payment, in the amount of the monthly payment level for the assistance unit size. New Start payments were received by the client within ten days following his or her release from the DOC facility.



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In 1995, Public Act 89-131 removed the requirement that the Department have special application processing procedures to expedite applications for DOC inmates about to be released to the community. Public Act 89-113 indicates that special treatment is no longer to be given these individuals. Pursuant to provisions of Public Act 89-113, these amendments repeal the provisions for New Start payments issued to individuals released from DOC facilities.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Judy Umunna  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
100 South Grand Avenue East, Third Floor  
Springfield, Illinois 62762  
(217) 524-0081

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF PUBLIC AID

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TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 112  
AID TO FAMILIES WITH DEPENDENT CHILDREN

## SUBPART A: GENERAL PROVISIONS

Section  
112.1 Description of the Assistance Program  
112.5 Incorporation by Reference

## SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section  
112.8 Caretaker Relative  
112.9 Client Cooperation  
112.10 Citizenship  
112.20 Residence  
112.30 Age  
112.40 Relationship  
112.50 Living Arrangement  
112.52 Social Security Numbers  
112.54 Assignment of Medical Support Rights  
112.60 Lack of Parental Support or Care  
112.61 Death of a Parent  
112.62 Incapacity of a Parent  
112.63 Continued Absence of a Parent  
112.64 Unemployment of the Parent  
112.65 Employment Plan  
112.66 Alcohol and Substance Abuse Treatment  
112.67 Restriction in Payment to Households Headed by a Minor Parent

## SUBPART C: JOB OPPORTUNITIES AND BASIC SKILLS TRAINING (JOBS) PROGRAM

Section  
112.70 Participation Requirements for JOBS  
112.71 Individuals Exempt from JOBS  
112.72 JOBS Participation/Cooperation Requirements  
112.73 Adolescent Parent Program  
112.74 JOBS Initial Assessment Process/Development of an Employability Plan  
112.75 Teen Parent Personal Responsibility Plan  
112.76 JOBS Orientation  
112.77 Conciliation and Fair Hearings  
112.78 JOBS Components  
112.79 JOBS Sanctions  
112.80 Good Cause for Failure to Comply with JOBS Participation Requirements

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112.81 Responsible Relative Eligibility for JOBS  
 112.82 JOBS Supportive Services  
 112.83 Young Parents Program  
 112.84 Work Experience Evaluation Project  
 112.85 Four Year College/Vocational Training Demonstration Project

## SUBPART E: PROJECT ADVANCE

Section  
 112.86 Project Advance  
 112.87 Project Advance Experimental and Control Groups  
 112.88 Project Advance Participation Requirements of Experimental Group  
 Members and Adjudicated Fathers  
 112.89 Project Advance Cooperation Requirements of Experimental Group  
 Members and Adjudicated Fathers  
 112.90 Project Advance Sanctions  
 112.91 Good Cause for Failure to Comply with Project Advance  
 112.93 Individuals Exempt From Project Advance  
 112.95 Project Advance Supportive Services

## SUBPART F: EXCHANGE PROGRAM

Section  
 112.98

Exchange Program

## SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section  
 112.100 Unearned Income  
 112.101 Unearned Income of Stepparent or Parent  
 112.105 Budgeting Unearned Income  
 112.106 Budgeting Unearned Income of Applicants Employed On Date of Application And/Or Date Of Decision  
 112.107 Initial Receipt of Unearned Income  
 112.108 Termination of Unearned Income  
 112.110 Exempt Unearned Income  
 112.115 Education Benefits  
 112.120 Incentive Allowances  
 112.125 Unearned Income In-Kind  
 112.126 Earmarked Income  
 112.127 Lump Sum Payments  
 112.128 Protected Income  
 112.130 Earned Income  
 112.131 Earned Income Tax Credit  
 112.132 Budgeting Earned Income  
 112.133 Budgeting Earned Income of Applicants Employed On Date of Application And/Or Date Of Decision  
 112.134 Initial Employment

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112.135 Budgeting Earned Income For Contractual Employees  
 112.136 Budgeting Earned Income For Non-Contractual School Employees  
 112.137 Termination of Employment  
 112.138 Transitional Payments (Repealed)  
 112.140 Exempt Earned Income  
 112.141 Earned Income Exemption  
 112.142 Exclusion From Earned Income Exemption  
 112.143 Recognized Employment Expenses  
 112.144 Income From Work/Study/Training Program  
 112.145 Earned Income From Self-Employment  
 112.146 Earned Income From Roomer and Boarder  
 112.147 Income From Rental Property  
 112.148 Payments from the Illinois Department of Children and Family Services  
 112.149 Earned Income In-Kind  
 112.150 Assets  
 112.151 Exempt Assets  
 112.152 Asset Disregards  
 112.153 Deferral of Consideration of Assets  
 112.154 Property Transfers (Repealed)  
 112.155 AFDC Income Limit

## SUBPART H: PAYMENT AMOUNTS

Section  
 112.250 Grant Levels  
 112.251 Payment Levels in AFDC  
 112.252 Payment Levels in AFDC Group I Counties  
 112.253 Payment Levels in AFDC Group II Counties  
 112.254 Payment Levels in AFDC Group III Counties

## SUBPART I: OTHER PROVISIONS

Section  
 112.300 Persons Who May Be Included in the Assistance Unit  
 112.301 Presumptive Eligibility  
 112.302 Monthly Reporting  
 112.303 Retrospective Budgeting  
 112.304 Budgeting Schedule  
 112.305 Strikers  
 112.306 Foster Care Program  
 112.307 Responsibility of Sponsors of Aliens  
 112.308 Special Needs Authorizations  
 112.309 Institutional Status  
 112.315 Young Parent Program (Renumbered)  
 112.320 Redetermination of Eligibility  
 112.330 Extension of Medical Assistance Due to Increased Income from Employment  
 112.331 Four Month Extension of Medical Assistance Due to Child Support

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Collections  
 112.332 Extension of Medical Assistance Due to Loss of Earned Income Disregard (Repealed)  
 112.340 New Start Payments to Individuals Released from Department of Corrections Facilities (Repealed)

## SUBPART J: CHILD CARE

Section  
 112.350 Child Care Eligibility  
 112.352 Child Care Eligibility  
 112.354 Qualified Provider  
 112.356 Notification of Available Services  
 112.358 Participant Rights and Responsibilities  
 112.362 Additional Service to Secure or Maintain Child Care Arrangements  
 112.364 Rates of Payment for Child Care  
 112.366 Method of Providing Child Care  
 112.370 Non-JOBS Education and Training Program

## SUBPART K: TRANSITIONAL CHILD CARE

Section  
 112.400 Transitional Child Care Eligibility  
 112.404 Duration of Eligibility for Transitional Child Care  
 112.406 Loss of Eligibility for Transitional Child Care  
 112.408 Qualified Child Care Providers  
 112.410 Notification of Available Services  
 112.412 Participant Rights and Responsibilities  
 112.414 Child Care Overpayments and Recoveries  
 112.416 Fees for Service for Transitional Child Care  
 112.418 Rates of Payment for Transitional Child Care

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective

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November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 7722, effective effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; amended at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg.



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7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17894; peremptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; amended at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency amendment at 8 Ill. Reg. 21666, effective October 19, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11288; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12

## DEPARTMENT OF PUBLIC AID

## NOTICE ADOPTED AMENDMENTS

111. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989; amended at 13 Ill. Reg. 8567, effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609, effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; emergency amendment at 19 Ill. Reg. 15244, effective November 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15661, effective November 3, 1995; emergency

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after August 22, 1996, shall not be eligible for five years beginning on the date the person entered the United States.

A) Immigrants---aliens-admitted-for-permanent-residence-

B) Refugees---Persons-admitted-pursuant-to-the-Refugee-Act-of-1980-(0-U-S-C-1157-et-seq-)

C) Political-asylees-

B) Persons-granted-temporary-parole--(includes--Cuban/Haitian Entrants-whose-status-is-pending)-

B) Applicants-for-asylum-from-any-country-

P) Aliens-who-have--continuously-resided--in--the-U-S--since January-17-1972-

G) Aliens-granted-stays-of-deportation-by-court-order--statute or-regulatory--or--by--individual-determination-of-the-INS pursuant-to-0-U-S-C-1105(a)-or-pursuant-to--INS--Operations Instruction-243-3-

H) Aliens-granted-deferred-actions--status--pursuant--to--INS Operations-Instruction-103-1a(f)-

I) Aliens-residing--in--the--United--States--under--order--of superviston-pursuant-to-0-U-S-C-1252(d)-

J) Aliens-whose--deportation--has--been-withheld-pursuant-to-0-U-S-C-1253(h)-

K) Aliens-granted--suspension--of--deportation--pursuant--to--0-U-S-C-1254-

L) Persons-permanently-residing-in-the-United-States-with-the approval-of-the-Immigration-and-Naturalization-Service-(INS) or-who-are-cooperating-with-INS-regarding-their--status--and who-are-not-under-a-direct-final-order-of-deportation-

2) It--does--not--include--persons-living-in-the-United-States-under-a student--visa--or--tourist--visa--or--persons--who--are--exchange visitors--temporary-workers--intercompany--transferees--visitors for--business--finances--of--U-S--citizens--diplomats--treaty traders--or--treaty-investors--are-not--permanently-residing--here so-do-not-meet-the-citizenship-requirement-

(Source: Amended at 21 Ill. Reg. 73.1.1. effective 11/1/96)

SUBPART I: OTHER PROVISIONS

Section 112.340 New Start Payments to Individuals Released from Department of Corrections Facilities (Repealed)

- a) Individuals-released-from-a-Department-of-Corrections--(BOC)--facility who--are--qualified--applicants--and--who--appear--for--the--interview scheduled--for--them--prior--to--their--release-by-BOC--are-eligible-to receive-a-one-time-assistance-payment-called-a-New-Start-Payment--in the-amount-of-the-monthly-payment-level-for-the-assistance-unit-size-
- b) The--New--Start-Payment-must-be-received-by-the-elfent-within-ten-(10)

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amendment at 19 Ill. Reg. 15839, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16295, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 845, effective January 1, 1996; amended at 20 Ill. Reg. 3538, effective February 15, 1996; amended at 20 Ill. Reg. 5648, effective March 30, 1996; amended at 20 Ill. Reg. 6018, effective April 12, 1996; amended at 20 Ill. Reg. 6498, effective April 29, 1996; amended at 20 Ill. Reg. 7892, effective June 1, 1996; emergency amendment at 20 Ill. Reg. 12499, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14820, effective November 1, 1996; amendment at 20 Ill. Reg. 15983, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 662, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 940, effective January 7, 1997; amended at 21 Ill. Reg. 1366, effective January 15, 1997; amended at 21 Ill. Reg. 2655, effective February 7, 1997; amended at 21 Ill. Reg. 3033, effective 11/1/97.

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section 112.10 Citizenship

To be eligible for assistance, an individual shall be either a U.S. citizen or a non-citizen within specific categories and subject to specific restrictions as set forth below 7-an-aften-legally-admitted-for-permanent-residence-or-an alien-admitted-under-color-of-law-according-to-the-following-definitions:

- a) Citizenship status -- Persons born in the U.S., or in its possessions, are U.S. citizens. Citizenship can also be acquired by naturalization through court proceedings, or by certain persons born in a foreign country of U.S. citizen parent(s).

b) Non-citizens

- 1) Alienage-status---Persons-residing-in-the-U-S-7-but-not-citizens by-birth--or-naturalization-are-considered--aliens--The following categories of non-citizens types---of---aliens may receive assistance, if otherwise eligible:

- A) A United States veteran honorably discharged and a person on active military duty, and the spouse and unmarried dependent children of such a person;
- B) Refugees under Section 207 of the Immigration and Nationality Act (INA);
- C) Asylees under Section 208 of the INA;
- D) Persons for whom deportation has been withheld under Section 243(h) of the INA;
- E) Persons granted conditional entry under Section 203(a)(7) of the INA as in effect prior to April 1, 1980;
- F) Persons lawfully admitted for permanent residence under the INA; and
- G) Parolees, for at least one year, under Section 212(d)(5) of the INA.
- 2) Those persons who are in the categories set forth in (b)(1)(F) and (b)(1)(G) of this Section, who enter the United States on or

## DEPARTMENT OF PUBLIC AID

## NOTICE ADOPTED AMENDMENTS

- c) ~~days following his/her release from the BOC facility. A qualified applicant is described as any specified relative (see--09 Ill. Adm. Code--101-20) of a child(ren) who is living with the child(ren) or who claims they will be living with the child(ren) in the future.~~
- d) ~~the client is not required to be living with the child(ren) at the time of his/her release or at the time of the local office interview as long as the client claims he/she will be living with the child(ren) in the future.~~
- e) ~~Notwithstanding anything else in this Section, the client is not eligible for a New Start Payment if the client is not a parent of the child(ren) for whom the client is applying and the child(ren) is presently receiving APBC benefits with a parent.~~

(Source: Repealed at 21 Ill. Reg. 12.010, effective

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Aid to the Aged, Blind or Disabled
- 2) Code Citation: 89 Ill. Adm. Code 113
- 3) Section Numbers: Adopted Action:  
113.10 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: May 31, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: May 31, 1997
- 9) Notice of Proposal Published in Illinois Register: January 10, 1997 (21 Ill. Reg. 552)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version:  
  
The following change was made in the text of the proposed amendments:  
  
1. Section 113.10(b)(A) was changed as follows:  
  
A United States veteran honorably discharged and a person on active military duty, and the spouse and unmarried dependent children of such a person;  
  
No other changes have been made in the text of the proposed amendments.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect?  
No
- 14) Are there any Amendments pending on this Part? No
- 15) Summary and Purpose of Amendments:

The Department is revising its rules on the eligibility for assistance of non-citizens based on the new requirements under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 enacted



## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

August 22, 1996.

Illinois has adopted all options for which federal funds or federal matching is available in federal/state programs and has extended those options to fully State-funded programs as well. The following non-citizens are eligible for these programs:

1. persons lawfully admitted for permanent residence;
2. persons paroled into the United States for at least one year;
3. refugees;
4. asylees;
5. persons for whom deportation has been withheld;
6. persons granted conditional entry prior to April 1, 1980; and
7. veterans and persons on active military duty, and the spouse and unmarried dependent children of such persons.

Persons lawfully admitted for permanent residence and persons paroled into the United States for at least one year, who enter the United States on or after August 22, 1996, shall not be eligible for Department programs for five years after they enter the United States.

Companion amendments are also being adopted to Parts 112, 114 and 120.

- 16) Information and questions regarding these Adopted Amendments shall be directed to

Judy Umunna  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
100 South Grand Avenue East, Third Floor  
Springfield, IL 62762  
(217) 524-0081

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 113  
AID TO THE AGED, BLIND OR DISABLED

## SUBPART A: GENERAL PROVISIONS

Section	
113.1	Description of the Assistance Program
113.5	Incorporation By Reference

## SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section	
113.9	Client Cooperation
113.10	Citizenship
113.20	Residence
113.30	Age
113.40	Blind
113.50	Disabled
113.60	Living Arrangement
113.70	Institutional Status
113.80	Social Security Number

## SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section		
113.100	Unearned Income	
113.101	Budgeting Unearned Income	Income On Date of
113.102	Budgeting Unearned Income of Applicants Receiving Income On Date of	
	Application And/Or Date of Decision	
113.103	Initial Receipt of Unearned Income	
113.104	Termination of Unearned Income	
113.105	Unearned Income In-Kind	
113.106	Earmarked Income	
113.107	Lump Sum Payments and Income Tax Refunds	
113.108	Protected Income (Repealed)	
113.109	Earned Income (Repealed)	
113.110	Budgeting Earned Income (Repealed)	
113.111	Protected Income	
113.112	Earned Income	
113.113	Exempt Unearned Income	Income On Date of
113.114	Budgeting Earned Income of Applicants Receiving Income On Date of	
	Application And/Or Date of Decision	
113.115	Initial Employment	

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113.116 Budgeting Earned Income For Contractual Employees  
 113.117 Budgeting Earned Income For Non-contractual School Employees  
 113.118 Termination of Employment  
 113.120 Exempt Earned Income  
 113.125 Recognized Employment Expenses  
 113.130 Income From Work/Study/Training Programs  
 113.131 Earned Income From Self-Employment  
 113.132 Earned Income From Roomer and Boarder  
 113.133 Earned Income From Rental Property  
 113.134 Earned Income In-Kind  
 113.139 Payments from the Illinois Department of Children and Family Services  
 113.140 Assets  
 113.141 Exempt Assets  
 113.142 Asset Disregard  
 113.143 Deferral of Consideration of Assets  
 113.154 Property Transfers For Applications Filed Prior To October 1, 1989 (Repealed)  
 113.155 Property Transfers For Applications Filed On Or After October 1, 1989 (Repealed)  
 113.156 Court Ordered Child Support Payments of Parent/Step-Parent  
 113.157 Sponsors of Aliens  
 113.160 Assignment of Medical Support Rights

## SUBPART D: PAYMENT AMOUNTS

Section  
 113.245 Payment Levels for AABD  
 113.246 Personal Allowance  
 113.247 Personal Allowance Amounts  
 113.248 Shelter  
 113.249 Utilities and Heating Fuel  
 113.250 Laundry  
 113.251 Telephone  
 113.252 Transportation, Lunches, Special Fees  
 113.253 Allowances for Increase in SSI Benefits  
 113.254 Nursing Care or Personal Care in Home Not Subject to Licensing  
 113.255 Sheltered Care in a Licensed Group Care Facility  
 113.256 Shopping Allowance  
 113.257 Special Allowances for Blind and Partially Sighted (Blind Only)  
 113.258 Home Delivered Meals  
 113.259 AABD Fuel and Utility Allowances By Area  
 113.260 Sheltered Care Rates  
 113.261 Cases in Licensed Intermediate Care Facilities, Licensed Skilled Nursing Facilities, DMHDD Facilities and All Other Licensed Medical Facilities  
 113.262 Meeting the Needs of an Ineligible Dependent with Client's Income

## SUBPART E: OTHER PROVISIONS

## DEPARTMENT OF PUBLIC AID

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Section  
 113.300 Persons Who May Be Included In the Assistance Unit  
 113.301 Grandfathered Cases  
 113.302 Interim Assistance (Repealed)  
 113.303 Special Needs Authorizations  
 113.304 Retrospective Budgeting  
 113.305 Budgeting Schedule  
 113.306 Purchase and Repair of Household Furniture (Repealed)  
 113.307 Property Repairs and Maintenance  
 113.308 Excess Shelter Allowance  
 113.309 Limitation on Amount of AABD Assistance to Recipients from Other States  
 113.320 Redetermination of Eligibility  
 113.330 Attorney's Fees for VA Appellants (Repealed)

## SUBPART F: INTERIM ASSISTANCE

Section  
 113.400 Description of the Interim Assistance Program  
 113.405 Pending SSI Application (Repealed)  
 113.410 More Likely Than Not Eligible for SSI (Repealed)  
 113.415 Non-Financial Factors of Eligibility (Repealed)  
 113.420 Financial Factors of Eligibility (Repealed)  
 113.425 Payment Levels for Chicago Interim Assistance Cases (Repealed)  
 113.430 Payment Levels for all Interim Assistance Cases Outside Chicago (Repealed)  
 113.435 Medical Eligibility (Repealed)  
 113.440 Attorney's Fees for SSI Applicants (Repealed)  
 113.445 Advocacy Program for Persons Receiving Interim Assistance (Repealed)  
 113.450 Limitation on Amount of Interim Assistance to Recipients from Other States (Repealed)  
 113.500 Attorney's Fees for SSI Appellants (Renumbered)

AUTHORITY: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; emergency expired January 28, 1979; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6,

## DEPARTMENT OF PUBLIC AID

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1979; amended at 3 Ill. Reg. 46, P. 36, effective November 2, 1979; amended at 3 Ill. Reg. 48, 3 Ill. Reg. 47, P. 96, effective November 19, 1979; amended at 3 Ill. Reg. 48, P. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, P. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, P. 258, effective February 25, 1980; at 4 Ill. Reg. 12, P. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, P. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, P. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, P. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, P. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, P. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 10, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9367, with no substantive change) at 7 Ill. Reg. 17351, effective December 21, 1983; amended at 8 Ill. Reg. 537, effective December 30, 1983; amended at 8 Ill. Reg. 5225, effective April 9, 1984; amended at 8 Ill. Reg. 6746, effective April 27, 1984; amended at 8 Ill. Reg. 11414, effective June 27, 1984; amended at 8 Ill. Reg. 13273, effective July 16, 1984; amended (by Sections being codified with no substantive change) at 8 Ill. Reg. 17895; amended at 8 Ill. Reg. 18896, effective September 26, 1984; amended at 9 Ill. Reg. 5335, effective April 5, 1985; amended at 9 Ill. Reg. 8166, effective May 17, 1985;

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amended at 9 Ill. Reg. 8657, effective May 25, 1985; amended at 9 Ill. Reg. 11302, effective July 5, 1985; amended at 9 Ill. Reg. 11636, effective July 8, 1985; amended at 9 Ill. Reg. 11991, effective July 12, 1985; amended at 9 Ill. Reg. 12806, effective August 9, 1985; amended at 9 Ill. Reg. 15896, effective October 4, 1985; amended at 9 Ill. Reg. 16291, effective October 10, 1985; emergency amendment at 10 Ill. Reg. 364, effective January 1, 1986; amended at 10 Ill. Reg. 1183, effective January 10, 1986; amended at 10 Ill. Reg. 6956, effective April 16, 1986; amended at 10 Ill. Reg. 8794, effective May 12, 1986; amended at 10 Ill. Reg. 10628, effective June 3, 1986; amended at 10 Ill. Reg. 15110, effective 11920, effective July 3, 1986; amended at 10 Ill. Reg. 15110, effective September 5, 1986; amended at 10 Ill. Reg. 15631, effective September 19, 1986; amended at 11 Ill. Reg. 3150, effective February 6, 1987; amended at 11 Ill. Reg. 8712, effective April 20, 1987; amended at 11 Ill. Reg. 9919, effective May 15, 1987; emergency amendment at 11 Ill. Reg. 12441, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20880, effective December 14, 1987; amended at 12 Ill. Reg. 867, effective January 1, 1988; amended at 12 Ill. Reg. 2137, effective January 11, 1988; amended at 12 Ill. Reg. 3497, effective January 22, 1988; amended at 12 Ill. Reg. 5642, effective March 15, 1988; amended at 12 Ill. Reg. 6151, effective March 22, 1988; amended at 12 Ill. Reg. 7887, effective April 22, 1988; amended at 12 Ill. Reg. 8662, effective May 13, 1988; amended at 12 Ill. Reg. 9023, effective May 20, 1988; amended at 12 Ill. Reg. 9669, effective May 24, 1988; emergency amendment at 12 Ill. Reg. 11828, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17849, effective October 25, 1988; amended at 13 Ill. Reg. 63, effective January 1, 1989; emergency amendment at 13 Ill. Reg. 3402, effective March 3, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 6007, effective April 14, 1989; amended at 13 Ill. Reg. 12553, effective July 12, 1989; amended at 13 Ill. Reg. 13609, effective August 11, 1989; emergency amendment at 13 Ill. Reg. 14467, effective September 1, 1989, for a maximum of 150 days; emergency amendment at 13 Ill. Reg. 16154, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 720, effective January 1, 1990; amended at 14 Ill. Reg. 6321, effective April 16, 1990; amended at 14 Ill. Reg. 13187, effective August 6, 1990; amended at 14 Ill. Reg. 14806, effective September 3, 1990; amended at 14 Ill. Reg. 16957, effective September 30, 1990; amended at 15 Ill. Reg. 277, effective January 1, 1991; emergency amendment at 15 Ill. Reg. 1111, effective January 10, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5291, effective April 1, 1991; amended at 15 Ill. Reg. 5698, effective April 10, 1991; amended at 15 Ill. Reg. 11142, effective July 7, 1991; amended at 15 Ill. Reg. 1148, effective August 12, 1991; amended at 15 Ill. Reg. 14073, effective September 11, 1991; emergency amendment at 15 Ill. Reg. 15119, effective October 7, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 16709, effective November 1, 1991; amended at 16 Ill. Reg. 9886, effective June 3468, effective February 20, 1992; amended at 16 Ill. Reg. 11565, effective July 15, 1992; amended at 16 Ill. Reg. 11565, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 13641, effective September 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14722, effective September 15,



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1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17154, effective November 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17764, effective November 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 827, effective January 15, 1993; amended at 17 Ill. Reg. 2263, effective February 15, 1993; amended at 17 Ill. Reg. 3202, effective February 26, 1993; amended at 17 Ill. Reg. 4322, effective March 22, 1993; amended at 17 Ill. Reg. 6804, effective April 21, 1993; amended at 17 Ill. Reg. 14612, effective August 26, 1993; amended at 18 Ill. Reg. 2018, effective January 21, 1994; amended at 18 Ill. Reg. 7759, effective May 5, 1994; amended at 18 Ill. Reg. 12818, effective August 5, 1994; amended at 19 Ill. Reg. 1052, effective January 26, 1995; amended at 19 Ill. Reg. 2875, effective February 24, 1995; amended at 19 Ill. Reg. 6639, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 8409, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15034, effective October 17, 1995; amended at 20 Ill. Reg. 858, effective December 29, 1995; emergency amendment at 21 Ill. Reg. 673, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

## Section 113.10 Citizenship

To be eligible for assistance, an individual shall be either a U.S. citizen or a non-citizen within specific categories and subject to specific restrictions as set forth below: an alien-legally-admitted-for-permanent-residence-or-an alien-admitted-under-color-of-law-according-to-the-following-definitions:

a) Citizenship status -- Persons born in the U.S., or in its possessions, are U.S. citizens. Citizenship can also be acquired by naturalization through court proceedings, or by certain persons born in a foreign country of U.S. citizen parent(s).

b) Non-citizens Aliens

1) Alienage-status---Persons-residing-in-the-U-S-7-but-not-citizens by-birth-or-naturalization-are-considered--aliens-The following categories of non-citizens types---of--aliens may receive assistance, if otherwise eligible:

A) A United States veteran honorably discharged and a person on active military duty, and the spouse and unmarried dependent children of such a person;

B) Refugees under Section 207 of the Immigration and Nationality Act (INA);

C) Asylees under Section 208 of the INA;

D) Persons for whom deportation has been withheld under Section 243(h) of the INA;

E) Persons granted conditional entry under Section 203(a)(7) of the INA as in effect prior to April 1, 1980;

F) Persons lawfully admitted for permanent residence under the INA; and

G) Parolees, for at least one year, under Section 212(d)(5) of

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

the INA.

A) Immigrants---aliens-admitted-for-permanent-residence-  
 B) Refugees---Persons-admitted-pursuant-to-the-Refugee-Act-of-1980-(9-U-S-C-1157-et-seq-)  
 C) Political-asylees-  
 D) Persons-granted-temporary-parole--{includes--Cuban/Haitian Entrants-whose-status-is-pending}-  
 E) Applicants-for-asylum-from-any-country-  
 F) Aliens-who-have-continuously-resided-in--the-U-S--since-January-17-1972-

G) Aliens-granted-stays-of-deportation-by-court-order---statute or---regulation--or--by-individual--determination--of--the Immigration-and-Naturalization-Service-(INS)-pursuant--to--8 U-S-C--1105(e)--or--pursuant--to-INS-Operations-Instruction 243-3-

H) Aliens-granted--deferred--action--status--pursuant--to--INS Operations-Instruction-103-1a-(f)-

I) Aliens-residing-in--the--United--States--under--order---of supervision-pursuant-to-8-U-S-C--1252(d)-

J) Aliens-whose-deportation-has-been-withheld-pursuant-to-8 U-S-C--1253(h)-

K) Aliens-granted--suspension--of--deportation--pursuant--to--8 U-S-C--1254-

L) Persons-permanently-residing-in-the-United-States-with-the approval-of-the-Immigration-and-Naturalization-Service-(INS) or-who-are-cooperating-with-INS-regarding-their--status--and who-are-not-under-a-direct-final-order-of-deportation-

M) Persons---granted---lawful---residence---status---under---the Immigration-Reform-and-Control-Act-of---1996---{Section 201(h)(2)(B)-of-P-L-104-99-603}-

2) Those persons who are in the categories set forth in (b)(1)(F) and (b)(1)(G) of this Section, who enter the United States on or after August 22, 1996, shall not be eligible for five years beginning on the date the person entered the United States. It does-not-include-persons-living-in-the-United-States-under-a student-visa-or-tourist-visa-or-persons-who-are-exchange visitors-temporary-workers-intercompany-transferees-visitors-for-business-financees-of-U-S--citizens-diplomats-treaty traders-or-treaty-investors-are-not-permanently-residing-here so-do-not-meet-the-citizenship-requirement-

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: General Assistance
- 2) Code Citation: 89 Ill. Adm. Code 114
- 3) Section Numbers: Adopted Action:  
114.10 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: May 31, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: May 31, 1997
- 9) Notice of Proposal Published in Illinois Register: January 10, 1997 (21 Ill. Reg. 555)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version:  
The following change was made in the text of the proposed amendments:  
1. Section 114.10(b)(1)(A) was changed as follows:  
A United States veteran honorably discharged and a person on active military duty, and the spouse and unmarried dependent children of such a person.  
No other changes have been made in the text of the proposed amendments.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect?  
No
- 14) Are there any Amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
114.452	Amendment	January 17, 1997 (21 Ill. Reg. 809)
114.454	Amendment	January 17, 1997 (21 Ill. Reg. 809)

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15) Summary and Purpose of Amendments:

The Department is revising its rules on the eligibility for assistance of non-citizens based on the new requirements under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 enacted August 22, 1996.

Illinois has adopted all options for which federal funds or federal matching is available in federal/state programs and has extended those options to fully State-funded programs as well. The following non-citizens are eligible for these programs:

1. persons lawfully admitted for permanent residence;
2. persons paroled into the United States for at least one year;
3. refugees;
4. asylees;
5. persons for whom deportation has been withheld;
6. persons granted conditional entry prior to April 1, 1980; and
7. veterans and persons on active military duty, and the spouse and unmarried dependent children of such persons.

Persons lawfully admitted for permanent residence and persons paroled into the United States for at least one year, who enter the United States on or after August 22, 1996, shall not be eligible for Department programs for five years after they enter the United States.

Companion amendments are also being adopted to Parts 112, 113 and 120.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Judy Umunna  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
100 South Grand Avenue East, Third Floor  
Springfield, IL 62762  
(217) 524-0081

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER b: ASSISTANCE PROGRAMS

## PART 114

## GENERAL ASSISTANCE

## SUBPART A: GENERAL PROVISIONS

Section	
114.1	Description of the Assistance Program
114.2	Determination of Not Employable
114.3	Advocacy Program for Persons Receiving State Transitional Assistance
114.5	Incorporation By Reference

## SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section	
114.9	Client Cooperation
114.10	Citizenship
114.20	Residence
114.30	Age
114.40	Relationship
114.50	Living Arrangement
114.52	Social Security Numbers
114.60	Work Registration Requirements (Outside City of Chicago only)
114.61	Individuals Exempt From Work Registration Requirements (Outside City of Chicago only)
114.62	Job Service Registration (Outside City of Chicago only)
114.63	Failure to Maintain Current Job Service Registration (Outside City of Chicago only)
114.64	Responsibility to Seek Employment (Outside City of Chicago only)
114.70	Initial Employment Expenses (Outside City of Chicago only)
114.80	Downstate General Assistance Work and Training Programs
114.85	Downstate General Assistance - Food Stamps Employment and Training Pilot Project
114.90	Project Chance Participation/Cooperation Requirements (Renumbered)
114.100	General Assistance Jobs Program (Repealed)

## SUBPART C: PROJECT ADVANCE

Section	
114.108	Project Advance
114.109	Project Advance Participation Requirements of Adjudicated Fathers
114.110	Project Advance Cooperation Requirements of Adjudicated Fathers
114.111	Project Advance Sanctions
114.113	Project Advance Good Cause for Failure to Comply
114.115	Individuals Exempt From Project Advance

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## SUBPART D: EMPLOYMENT AND TRAINING REQUIREMENTS

114.117	Project Advance Supportive Services
Section	Employment and Training Requirements
114.120	Persons Required to Participate in Project Chance (Repealed)
114.121	Advocacy Program for Persons Who Have Applied for Supplemental Security Income (SSI) Under Title XVI of the Social Security Act (Repealed)
114.123	Persons in Need of Work Rehabilitative Services (WRS) to Become Employable (Repealed)
114.124	Employment and Training Participation/Cooperation Requirements (Repealed)
114.125	Employment and Training Program Orientation (Repealed)
114.126	Employment and Training Program Full Assessment Process/Development of an Employment Plan (Repealed)
114.127	Employment and Training Program Components (Repealed)
114.128	Employment and Training Sanctions (Repealed)
114.129	Good Cause For Failure to Cooperate With Work and Training Participation Requirements (Repealed)
114.130	Employment and Training Supportive Services (Repealed)
114.135	Conciliation and Fair Hearings (Repealed)
114.140	Employment Child Care (Repealed)

## SUBPART E: FINANCIAL FACTORS OF ELIGIBILITY

Section	Unearned Income
114.200	Budgeting Unearned Income
114.201	Budgeting Unearned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision
114.202	Initial Receipt of Unearned Income
114.203	Termination of Unearned Income
114.204	Exempt Unearned Income
114.210	Education Benefits
114.220	Unearned Income In-Kind
114.221	Earmarked Income
114.222	Lump Sum Payments
114.223	Protected Income
114.224	Earned Income
114.225	Budgeting Earned Income
114.226	Budgeting Earned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision
114.227	Initial Employment
114.228	Termination of Employment
114.229	Exempt Earned Income
114.230	Recognized Employment Expenses
114.235	



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114.240 Income From Work/Study/Training Program (Repealed)  
 114.241 Earned Income From Self-Employment  
 114.242 Earned Income From Roomer and Boarder  
 114.243 Earned Income From Rental Property  
 114.244 Earned Income In-Kind  
 114.245 Payments from the Illinois Department of Children and Family Services  
 114.246 Budgeting Earned Income For Contractual Employees  
 114.247 Budgeting Earned Income For Non-contractual School Employees  
 114.250 Assets  
 114.251 Exempt Assets  
 114.252 Asset Disregards  
 114.260 Deferral of Consideration of Assets (Repealed)  
 114.270 Property Transfers (Repealed)  
 114.280 Supplemental Payments

## SUBPART F: PAYMENT AMOUNTS

Section  
 114.350 Payment Levels for General Assistance  
 114.351 Payment Levels in Group I Counties  
 114.352 Payment Levels in Group II Counties  
 114.353 Payment Levels in Group III Counties

## SUBPART G: OTHER PROVISIONS

Section  
 114.400 Persons Who May Be Included In the Assistance Unit  
 114.401 Eligibility of Strikers  
 114.402 Special Needs Authorizations  
 114.403 Institutional Status  
 114.404 Retrospective Budgeting  
 114.405 Budgeting Schedule  
 114.406 Limitation on Amount of General Assistance to Recipients from Other States  
 114.420 Redetermination of Eligibility  
 114.430 Extension of Medical Assistance Due to Increased Income from Employment  
 114.440 Attorney's Fees for VA Appellants  
 114.442 Attorney's Fees for SSI Applicants

## SUBPART H: CHILD CARE

Section  
 114.450 Child Care  
 114.452 Child Care Eligibility  
 114.454 Qualified Provider  
 114.456 Notification of Available Services  
 114.458 Participant Rights and Responsibilities

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114.462 Additional Service to Secure or Maintain Child Care Arrangements  
 114.464 Rates of Payment for Child Care  
 114.466 Method of Providing Child Care

## SUBPART I: TRANSITIONAL CHILD CARE

Section  
 114.500 Transitional Child Care Eligibility  
 114.504 Duration of Eligibility for Transitional Child Care  
 114.506 Loss of Eligibility for Transitional Child Care  
 114.508 Qualified Provider  
 114.510 Notification of Available Services  
 114.512 Participant Rights and Responsibilities  
 114.514 Child Care Overpayments and Recoveries  
 114.516 Fees for Service for Transitional Child Care  
 114.518 Rates of Payment for Transitional Child Care

AUTHORITY: Implementing Article VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. VI and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979, peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory



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amendment at 17 Ill. Reg. 19728, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3436, effective February 28, 1994; amended at 18 Ill. Reg. 7390, effective April 29, 1994; amended at 18 Ill. Reg. 12839, effective August 5, 1994; emergency amendment at 19 Ill. Reg. 8434, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15058, effective October 17, 1995; emergency amendment at 20 Ill. Reg. 4445, effective February 28, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 9970, effective July 10, 1996; emergency amendment at 21 Ill. Reg. 682, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7413, effective MAY 31 1997.

## SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

## Section 114.10 Citizenship

To be eligible for assistance, an individual shall be either a U.S. citizen or a non-citizen within specific categories and subject to specific restrictions as set forth below: an alien legally admitted for permanent residence or an alien admitted under color of law according to the following definitions:

a) Citizenship status -- Persons born in the U.S., or in its possessions, are U.S. citizens. Citizenship can also be acquired by naturalization through court proceedings, or by certain persons born in a foreign country of U.S. citizen parent(s).

b) Non-citizens

1) Alienage status --- Persons residing in the U.S., but not citizens by birth or naturalization are considered aliens.

2) The following categories of non-citizens types of aliens may receive assistance, if otherwise eligible:

A) A United States veteran honorably discharged and a person on active military duty, and the spouse and unmarried dependent children of such a person;

B) Refugees under Section 207 of the Immigration and Nationality Act (INA);

C) Asylees under Section 208 of the INA;

D) Persons for whom deportation has been withheld under Section 243(h) of the INA;

E) Persons granted conditional entry under Section 203(a)(7) of the INA as in effect prior to April 1, 1980;

F) Persons lawfully admitted for permanent residence under the INA; and

G) Parolees, for at least one year, under Section 212(d)(5) of the INA.

A) Immigrants --- aliens admitted for permanent residence;

B) Refugees --- persons admitted pursuant to the Refugee Act of 1980 (8 U.S.C. 1157 et seq.);

C) Political asylees;

D) Persons granted temporary parole --- (includes Cuban/Haitian Entrants whose status is pending);

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B) Applicants for asylum from any country;

F) Aliens who have continuously resided in the U.S. since January 1, 1972;

G) Aliens granted stays of deportation by court order, statute or regulation, or by individual determination of the Immigration and Naturalization Service (INS) pursuant to 8 U.S.C. 1105(a) or pursuant to INS Operations Instruction 243-3;

H) Aliens granted deferred action status pursuant to INS Operations Instruction 103-1a (i);

I) Aliens residing in the United States under order of supervision pursuant to 8 U.S.C. 1252(d);

J) Aliens whose deportation has been withheld pursuant to 8 U.S.C. 1253(h);

K) Aliens granted suspension of deportation pursuant to 8 U.S.C. 1254;

L) Persons permanently residing in the United States with the approval of the Immigration and Naturalization Service (INS) or who are cooperating with INS regarding their status and who are not under a direct final order of deportation;

M) Persons granted lawful residence status under the Immigration Reform and Control Act of 1986 (Section 201(h)(1)(B) of P.L. 99-603)

2) Those persons who are in the categories set forth in (b)(1)(F) and (b)(1)(G) of this Section, who enter the United States on or after August 22, 1996, shall not be eligible for five years beginning on the date the person entered the United States. It does not include persons living in the United States under a student visa or tourist visa or persons who are exchange visitors, temporary workers, intercompany transferees, visitors for business, fiancées of U.S. citizens, diplomats, treaty traders or treaty investors are not permanently residing here so do not meet the citizenship requirement.

(Source: Amended at 21 Ill. Reg. 7413, effective MAY 31 1997)



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## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Medical Assistance Programs
- 2) Code Citation: 89 Ill. Adm. Code 120
- 3) Section Numbers: Adopted Action:  
120.11 Amendment  
120.310 Amendment  
120.372 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: May 31, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: May 31, 1997
- 9) Notice of Proposal Published in Illinois Register: January 10, 1997 (21 Ill. Reg. 558) and December 27, 1996 (20 Ill. Reg. 16143)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version:

Sections 120.11 and 120.310

The following changes have been made in the text of the proposed amendments:

1. "Article VII" was deleted from the AUTHORITY NOTE because Article VII has been repealed.
2. In Section 120.11(a)(2), "days" was changed to "day".
3. In Section 120.11(b), "Categorically" was correctly spelled.
4. In Section 120.11(b)(1), "eligibility" was correctly spelled.
5. In Sections 120.11(b)(4)(D) and 120.11(b)(5), "b" was added after "subsection".
6. Section 120.310(b)(1)(A) was changed as follows:  
"A United States veteran honorably discharged and a person on active military duty, and the spouse and unmarried dependent children of such a person;"

Section 120.372

The AUTHORITY NOTE was corrected to reflect that Art. VII has been repealed.

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- No other changes have been made in the text of the proposed amendments.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect?  
No
- 14) Are there any Amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
120.60	Amendment	March 14, 1997 (21 Ill. Reg. 3027)
120.330	Amendment	March 7, 1997 (21 Ill. Reg. 2913)
120.347	Amendment	March 14, 1997 (21 Ill. Reg. 3027)
120.379	Amendment	August 23, 1996 (20 Ill. Reg. 11472)
120.382	Amendment	March 7, 1997 (21 Ill. Reg. 2913)

15) Summary and Purpose of Amendments:Sections 120.11 and 120.310

The Department is revising its rules on the eligibility for assistance of non-citizens based on the new requirements under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, enacted August 22, 1996.

Illinois has adopted all options for which federal funds or federal matching is available in federal/state programs and has extended those options to fully State-funded programs as well. The following non-citizens are eligible for these programs:

1. persons lawfully admitted for permanent residence;
2. persons paroled into the United States for at least one year;
3. refugees;
4. asylees;
5. persons for whom deportation has been withheld;
6. persons granted conditional entry prior to April 1, 1980; and
7. veterans and persons on active military duty, and the spouse and unmarried dependent children of such persons.

Persons lawfully admitted for permanent residence and persons paroled into the United States for at least one year, who enter the United States on or after August 22, 1996, shall not be eligible for Department programs for five years after they enter the United States.

There is no citizenship requirement for pregnant women under the MANG-P program in order to cover pre-natal services for these women. The

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citizenship requirements will apply to children under the MANG-P program.

In addition, there is no citizenship requirement for medical care or services necessary for the treatment of an emergency medical condition, including labor and delivery.

Companion amendments are also being adopted to Parts 112, 113, and 114.

Section 120.372

Amendments were adopted on December 9, 1996, to implement several budgeting changes in the MANG budgeting process. One of the adopted changes involved the averaging of income of self-employed persons over the year. The Department has now determined that averaging the income of self-employed persons over the year cannot be implemented. Since the problems with implementation of this change were discovered after the proposed changes were reviewed by the Joint Committee on Administrative Rules, the change could not be deleted from the rulemaking. Therefore, these adopted amendments delete the provisions on averaging the income of self-employed persons.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Judy Umunna  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
100 South Grand Avenue East, Third Floor  
Springfield, IL 62762  
(217) 524-0081

The full text of the Adopted Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 120  
MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section  
120.1 Incorporation By Reference

SUBPART B: ASSISTANCE STANDARDS

Section  
120.10 Eligibility For Medical Assistance  
120.11 Eligibility for For Medical Assistance for Pregnant Women and for Children Born October 1, 1983, or Later Who Do Not Qualify As Mandatory Categorically Needy (MANG(P) Program)

120.12 Healthy Start - Medicaid Presumptive Eligibility Program For Pregnant Women

120.20 MANG(AABD) Income Standard  
120.30 MANG(C) Income Standard  
120.31 MANG(P) Income Standard  
120.40 Exceptions To Use Of MANG Income Standard  
120.50 AMI Income Standard (Repealed)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section  
120.60

All Cases Other Than Intermediate Care, Skilled Nursing Care, DMHDD, DMHDD Approved Community Based Settings and Pregnant Women and Children Born October 1, 1983, or Later Who Do Not Qualify As Mandatory Categorically Needy

120.61 Cases in Intermediate Care, Skilled Nursing Care and DMHDD - MANG(AABD) and All Other Licensed Medical Facilities

120.62 Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings Under 89 Ill. Adm. Code 140.643

120.63 Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings

120.64 Pregnant Women and Children Born October 1, 1983, or Later Who Do Not Qualify As Mandatory Categorically Needy

120.65 Department of Mental Health and Developmental Disabilities (DMHDD) Licensed Community - Integrated Living Arrangements

SUBPART D: SUPPLEMENTARY MEDICAL INSURANCE

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## Section

120.70 Supplementary Medical Insurance Benefits (SMIB) Buy-In Program  
 120.72 Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)  
 120.73 Eligibility for Medical Payment of Medicare Part B Premiums as a Specified Low-Income Medicare Beneficiary (SLIB)  
 120.74 Qualified Medicare Beneficiary (QMB) Income Standard  
 120.75 Specified Low-Income Medicare Beneficiary (SLIB) Income Standard  
 120.76 Hospital Insurance Benefits (HIB)

## SUBPART E: RECIPIENT RESTRICTION PROGRAM

## Section

120.80 Recipient Restriction Program

## SUBPART F: MIGRANT MEDICAL PROGRAM

## Section

120.90 Migrant Medical Program  
 120.91 Income Standards

## SUBPART G: AID TO THE MEDICALLY INDIGENT

## Section

120.200 Elimination of Aid to the Medically Indigent  
 120.208 Client Cooperation (Repealed)  
 120.210 Citizenship (Repealed)  
 120.211 Residence (Repealed)  
 120.212 Age (Repealed)  
 120.215 Relationship (Repealed)  
 120.216 Living Arrangement (Repealed)  
 120.217 Supplemental Payments (Repealed)  
 120.218 Institutional Status (Repealed)  
 120.224 Foster Care Program (Repealed)  
 120.225 Social Security Numbers (Repealed)  
 120.230 Unearned Income (Repealed)  
 120.235 Exempt Unearned Income (Repealed)  
 120.236 Education Benefits (Repealed)  
 120.240 Unearned Income In-Kind (Repealed)  
 120.245 Earmarked Income (Repealed)  
 120.250 Lump Sum Payments and Income Tax Refunds (Repealed)  
 120.255 Protected Income (Repealed)  
 120.260 Earned Income (Repealed)  
 120.261 Budgeting Earned Income (Repealed)  
 120.262 Exempt Earned Income (Repealed)  
 120.270 Recognized Employment Expenses (Repealed)  
 120.271 Income From Work/Study/Training Program (Repealed)  
 120.272 Earned Income From Self-Employment (Repealed)

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120.273 Earned Income From Roomer and Boarder (Repealed)  
 120.275 Earned Income In-Kind (Repealed)  
 120.276 Payments from the Illinois Department of Children and Family Services (Repealed)  
 120.280 Assets (Repealed)  
 120.281 Exempt Assets (Repealed)  
 120.282 Asset Disregards (Repealed)  
 120.283 Deferral of Consideration of Assets (Repealed)  
 120.284 Spend-down of Assets (AMI) (Repealed)  
 120.285 Property Transfers (Repealed)  
 120.290 Persons Who May Be Included in the Assistance Unit (Repealed)  
 120.295 Payment Levels for AMI (Repealed)

## SUBPART H: MEDICAL ASSISTANCE - NO GRANT

## Section

120.308 Client Cooperation  
 120.309 Caretaker Relative  
 120.310 Citizenship  
 120.311 Residence  
 120.312 Age  
 120.313 Blind  
 120.314 Disabled  
 120.315 Relationship  
 120.316 Living Arrangements  
 120.317 Supplemental Payments  
 120.318 Institutional Status  
 120.319 Assignment of Rights to Medical Support and Collection of Payment  
 120.320 Cooperation in Establishing Paternity and Obtaining Medical Support  
 120.321 Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support  
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 120.323 Suspension of Paternity Establishment and Obtaining Medical Support  
 120.324 Upon Finding Good Cause  
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## NOTICE OF ADOPTED AMENDMENTS

- 120.347 Treatment of Trusts
- 120.350 Lump Sum Payments and Income Tax Refunds
- 120.355 Protected Income
- 120.360 Earned Income
- 120.361 Budgeting Earned Income
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- 120.363 Earned Income Disregard - MANG(C)
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- 120.390 Persons Who May Be Included in the Assistance Unit
- 120.391 Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG and Children Born October 1, 1983, or Later (MANG(P) Program)
- 120.392 Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 120.393 Pregnant Women and Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project
- 120.395 Payment Levels for MANG (Repealed)
- 120.399 Redetermination of Eligibility

## TABLE A Value of a Life Estate and Remainder Interest

## TABLE B Life Expectancy

AUTHORITY: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill.

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Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 12, p. 551, effective February 25, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; March 10, 1980; amended at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a emergency amendment at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding Section being codified with no substantive change) at 7 Ill.

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Reg. 14747; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; peremptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 13, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1,

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1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 5068, effective March 20, 1996; amended at 20 Ill. Reg. 15993, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 692, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 15433, effective

## SUBPART B: ASSISTANCE STANDARDS

Section 120.11 Eligibility for ~~For~~ Medical Assistance for Pregnant Women and ~~for~~ Children Born October 1, 1983, or Later Who Do Not Qualify As Mandatory Categorically Needy (MANG(P) Program)

- a) Pregnant Women who do not qualify as Mandatory Categorically Needy (MANG(P) Program)
- 1) Eligibility for medical assistance exists for a pregnant woman of any age who does not qualify as mandatory categorically needy (Social Security Act (U.S.C. 1902 (a)(10)(A)(i) and 1905(n)) who meets the following eligibility requirements:
    - A) cooperation in establishing eligibility as described in Section 120.308; who meets the non-financial requirements of the program in Section 120.211; and
    - B) residency as described in Section 120.311; and
    - C) whose countable monthly income does not exceed the MANG(P)



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- Income Standard (see Section 120.31).
- 2) The pregnant woman shall be eligible to receive medical assistance until ~~sixty--~~ 60<sup>+</sup> days following the last day of pregnancy. The ~~sixty--~~ 60<sup>+</sup> day medical coverage continues through the last day of the calendar month in which the ~~sixty--~~ 60<sup>+</sup> day days period ends. The ~~sixty--~~ 60<sup>+</sup> days medical coverage period shall be provided for all pregnant women determined eligible for medical assistance under subsection (a)(1) of this Section ~~above~~ including pregnant women who are no longer pregnant at the time of application because the woman had a miscarriage or an abortion or signed an adoption agreement.
  - 3) When a pregnant woman is determined eligible for medical assistance under (a)(1) of this Section ~~above~~, income changes occurring after the eligibility determination are not considered through the 60 day ~~postpartum~~ postpartum period following the last day of pregnancy.
  - b) Children born October 1, 1983, or later, who do not qualify as Mandatory Categorically Needy (MANG(P) Program)
    - 1) Eligibility for medical assistance exists for children born October 1, 1983, or later, who do not qualify as mandatory categorically needy (Social Security Act (U.S.C.1902 (a)(10)(A)(i) and 1905(n)) who meet the following eligibility requirements:
      - A) cooperation in establishing eligibility as described in Section 120.308; who meet the non-financial requirements of the program in Section 120.311; and
      - B) citizenship/alienage status as described in 120.310;
      - C) residency as described in Section 120.311; and
      - D) whose countable monthly income exceeds the MANG(C) or MANG(AABD) income standards (Sections 120.20 and 120.30) but does not exceed the MANG(P) income standard (see Section 120.31).
  - 2) Children born October 1, 1983, or later, shall be eligible to receive medical assistance under subsection (b)(1) of this Section ~~above~~:
    - A) from the date of birth through ~~thru~~ age ~~nineteen--~~ 19<sup>+</sup>; or
    - B) through ~~thru~~ age ~~nineteen--~~ 19<sup>+</sup> if an application is approved for medical assistance; or
    - C) until countable monthly income exceeds the MANG(P) income standard (see Section 120.31), whichever comes first.
  - 3) When the Department becomes aware of the birth of a child or children ~~children~~ to a woman determined eligible under subsection (a)(1) of this Section ~~above~~, the child shall be deemed to have applied for medical assistance under subsection (b)(1) of this Section ~~above~~, without written request. The child or children ~~children~~ shall be eligible to receive medical assistance for the same period of time the mother is receiving medical assistance.

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- 4) When the child's mother becomes ineligible for medical assistance under subsection (a) of this Section ~~above~~, the infant retains eligibility for medical assistance until:
  - A) up to age one ~~1+~~ year; or
  - B) through ~~thru~~ age ~~nineteen--~~ 19<sup>+</sup> if an application is approved for medical assistance; or
  - C) countable monthly income exceeds the MANG(P) income standard (see Section 120.31), whichever comes first; or
  - D) if an application is later approved for financial assistance, the child is ineligible for medical assistance under this subsection (b).
- 5) When a child is determined eligible for medical assistance under this subsection (b) and there is a change in income which causes countable monthly income to exceed the MANG(P) income standard (see Section 120.31), the child is ineligible for medical assistance under this subsection (b). Countable income must then be compared to the MANG(C) or MANG(AABD) income standard (see Section 120.20, 120.30) to determine the spend-down amount, if any.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART H: MEDICAL ASSISTANCE - NO GRANT

## Section 120.310 Citizenship

To be eligible for assistance, an individual shall be either a U.S. citizen, or a non-citizen within specific categories and subject to specific restrictions as set forth below ~~an alien-legally-admitted-for-permanent-residence--or--an alien-admitted-under-color-of-law-according-to-the-following-definitions:~~

- a) Citizenship status -- Persons born in the U.S., or in its possessions, are U.S. citizens. Citizenship can also be acquired by naturalization through court proceedings, or by certain persons born in a foreign country of U.S. citizen parent(s).
- b) Non-citizens Aliens
  - 1) ~~Alienage-status--~~ Persons-residing-in-the-U-S--but-not-citizens-by-birth-or-naturalization-are-considered-alien. The following categories of non-citizens types--of--aliens may receive assistance, if otherwise eligible:
    - A) A United States veteran honorably discharged and a person on active military duty, and the spouse and unmarried dependent children of such a person;
    - B) Refugees under Section 207 of the Immigration and Nationality Act (INA);
    - C) Asylees under Section 208 of the INA;
    - D) Persons for whom deportation has been withheld under Section 243(h) of the INA;



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E) Persons granted conditional entry under Section 203(a)(7) of the INA as in effect prior to April 1, 1980;  
 F) Persons lawfully admitted for permanent residence under the INA; and  
 G) Parolees, for at least one year, under Section 212(d)(5) of the INA.

2) Those persons who are in the categories as set forth in (b)(1)(F) and (b)(1)(G) of this Section, who enter the United States on or after August 22, 1996, shall not be eligible for five years beginning on the date the person entered the United States.

A) Immigrants---aliens-admitted-for-permanent-residence-

B) Refugees-----Persons-admitted-pursuant-to-the-Refugee-Act-of-1980-(6-U.S.C.-1157-et-seq-)

C) Political-asylees-

D) Persons-granted-temporary-parole--includes--Cuban/Haitian

Entrants-whose-status-is-pending;

E) Applicants-for-asylum-from-any-country-

F) Aliens-who-have-continuously-resided-in-the-U.S.-since-January-1, 1972-

G) Aliens-granted-stays-of-deportation-by-court-order--statute-or-regulation--or-by-individual-determination--of-the-immigration-and-Naturalization-Service-(INS)-pursuant-to--8-U.S.C.-1105(a)-or-pursuant-to-INS-Operations-Instruction-243-3;

H) Aliens-granted-deferred-action-status-pursuant-to--INS-Operations-Instruction-103-1a-(ii)-

I) Aliens-residing-in-the-United-States-under--order--of-supervision-pursuant-to-8-U.S.C.-1252(d)-

J) Aliens-whose-deportation-has-been-withheld-pursuant-to-8-U.S.C.-1253(h)-

K) Aliens-granted-suspension-of-deportation-pursuant-to--8-U.S.C.-1254-

L) Persons-permanently-residing-in-the-United-States-with-the-approval-of-the-INS-or-who-are-cooperating-with-INS-regarding-their-status-and-who-are-not-under-a-direct-final-order-of-deportation-

2) it--does--not--include--persons--living--in--the--United--States--under--a--student--visa--or--tourist--visa--or--persons--who--are--exchange--visitors--temporary-workers--intercompany--transferees--visitors--for--business--fiancees--of--U.S.--citizens--diplomats--treaty--traders--or--treaty--investors--are--not--permanently--residing--here--so-do-not-meet-the-citizenship-requirement-

3) Notwithstanding the provisions of subsections (b)(1) and (2) above, any non-citizen an alien is eligible for medical assistance if such medical care and services are necessary for the treatment of an emergency medical condition of the non-citizen alien, and the non-citizen alien otherwise meets the income, asset and categorical requirements of the AABD MAG

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program or AFDC MAG program. An emergency medical condition is a medical condition (including emergency labor and delivery) of sufficient severity (including severe pain) that the absence of immediate medical attention could result in:

- A) placing the non-citizen's alien's health in serious jeopardy;
- B) serious impairments to bodily functions; or
- C) serious dysfunction of any organ or part (42 U.S.C. 1396(b)(v)).

e) Lawful-Resident-Status---persons-residing-in-the-U.S.-if-granted-lawful-resident-status-under-the-immigration-Reform-and-Control-Act-of-1986--Section-301(h)(3)(A)-and-(B)-of-P-B-99-609-are-eligible-for-the-following-types-of-assistance-if-otherwise-eligible-

1) AABD-MAG-

2) APBC-MAG--if-

A) the-individual-is-a-child-under-age-18-or-

B) the-individual-is-a-pregnant-woman-

(Source: Amended at 21 Ill. Reg. 7223, effective 1/1/94)

## SUBPART H: MEDICAL ASSISTANCE - NO GRANT

## Section 120.372 Earned Income From Self-Employment

- a) Income realized from self-employment is considered earned income.
- b) Accurate and complete records shall be kept on all monies received and spent through self-employment. If the individual fails or refuses to maintain complete business records, the assistance unit is ineligible.
- c) Business expenses must be verified. The individual has full responsibility for proof of any business expense. No deduction is allowed for depreciation, obsolescence and/or similar losses in the operation of the business. Gross income from the business is turned back into the business only to replace stock actually sold.
- d) The net income is the gross remaining after the replacement of stock and business expenses have been considered, and the appropriate employment expenses and child care expenses, as specified in Section 113, have been deducted. The earned income exemption, if applicable, is computed on the net income.

e) To-determine-the-amount-of-self-employment-income-to-be-considered-the-verified-income-from-the-previous-entander-year-is-divided-into-12-monthly-amounts---The-income--from--the-previous-year-is-considered-unless-

- 1) the-person-was-not-self-employed-in-the-previous-entander-year
- 2) the-person-is-no-longer-self-employed-or
- 3) the-person-has--valid--reasons--to--antepate--that--the--income--expected--to-be-received-during-the-current-entander-year--will-be-in-a-different-amount-

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## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 21 Ill. Reg. 7437-3, effective

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Rights and Responsibilities
- 2) Code Citation: 89 Ill. Adm. Code 102
- 3) Section Numbers: Adopted Action:  
102.270 Amendment  
102.280 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: June 1, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: June 1, 1997
- 9) Notice of Proposal Published in Illinois Register: January 24, 1997 (21 Ill. Reg. 1171)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: The following changes were made in the text of the proposed amendments:
1. In Section 102.270(a), "State" was changed to the lower case.
  2. In Section 102.270(b), an underlined comma was inserted after "violation".
  3. In Section 102.280(c), underlined commas were inserted after "notified" and "writing". Also, the final period was moved from outside to inside the closing parenthesis.
  4. In Section 102.280(g), "Administrative Review Board of the Department" was struck and "ARB" was added.
- No other changes have been made in the text of the proposed amendments.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect?  
No
- 14) Are there any Amendments pending on this Part? Yes

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Section Numbers	Proposed Action	Illinois Register Citation
102.21	Amendment	March 7, 1997 (21 Ill. Reg. 2924)
102.70	Amendment	March 28, 1997 (21 Ill. Reg. 3829)

- 15) Summary and Purpose of Amendments: Pursuant to provisions of Public Act 89-0489 (S.B. 1472), these amendments add the conviction under any law of the United States or of any state regarding public assistance or medical assistance fraud as a condition for which an applicant for public assistance will have to have the application reviewed by an administrative review board to determine the applicant's eligibility and the need for administrative safeguards to prevent any such further violations and for which a second violation will cause the applicant to be ineligible for public aid.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Judy Umunna  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
100 South Grand Avenue East, Third Floor  
Springfield, IL 62762  
(217) 524-0081

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER a: GENERAL PROVISIONS

## PART 102

## RIGHTS AND RESPONSIBILITIES

Section	
102.1	Incorporation By Reference
102.10	Rights of Clients
102.20	Nondiscrimination
102.21	Voter Registration
102.25	Grievance Rights of Clients
102.30	Confidentiality of Case Information
102.35	Case Records
102.40	Freedom of Choice
102.50	Reporting Change of Circumstances
102.60	Referral Requirements
102.63	Reporting Child Abuse/Neglect
102.66	Suitability of Home
102.70	Notice to Client
102.80	Right to Appeal
102.81	Continuation of Assistance Pending Appeal
102.82	Time Limit for Filing an Appeal
102.83	Examining Department Records
102.84	Child Care
102.90	Voluntary Repayment of Assistance
102.100	Excess Assistance (Recodified)
102.110	Recoupment of Overpayments (Recodified)
102.120	Correction of Underpayments
102.200	Recovery of Assistance
102.210	Estate Claims
102.220	Real Property Liens
102.230	Filing and Renewal of Liens
102.235	Liens on Property of Institutionalized Recipients
102.240	Foreclosure of Liens
102.250	Release of Liens
102.260	Personal Injury Claims
102.270	Convictions of Fraud - Eligibility
102.280	Single Conviction of Fraud - Administrative Review Board

AUTHORITY: Implementing Article XI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. XI and 12-13].

SOURCE: Filed and effective December 31, 1977; peremptory rule at 2 Ill. Reg. 52, p. 449, effective December 13, 1978; amended at 2 Ill. Reg. 52, p. 462, December 23, 1978; peremptory amendment at 3 Ill. Reg. 11, p. 39, effective March 1, 1979; amended at 3 Ill. Reg. 41, p. 167, effective October 1, 1979;



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amended at 3 Ill. Reg. 43, p. 196, effective October 15, 1979; amended at 5 Ill. Reg. 8035, effective July 27, 1981; amended at 5 Ill. Reg. 10775, effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 7 Ill. Reg. 8350, effective July 1, 1983; amended at 8 Ill. Reg. 18910, effective September 26, 1984; amended at 9 Ill. Reg. 327, effective December 31, 1984; amended at 9 Ill. Reg. 3730, effective March 13, 1985; amended at 9 Ill. Reg. 6812, effective April 26, 1985; amended at 9 Ill. Reg. 7162, effective May 1, 1985; amended at 9 Ill. Reg. 13091, effective August 16, 1985; amended at 9 Ill. Reg. 14704, effective September 13, 1985; amended at 9 Ill. Reg. 15912, effective October 4, 1985; amended at 10 Ill. Reg. 3981, effective February 22, 1986; amended at 10 Ill. Reg. 14795, effective August 29, 1986; amended at 10 Ill. Reg. 19088, effective October 24, 1986; Sections 102.100 and 102.110 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; amended at 11 Ill. Reg. 14067, effective August 10, 1987; amended at 11 Ill. Reg. 18239, effective October 30, 1987; amended at 12 Ill. Reg. 3735, effective February 5, 1988; amended at 13 Ill. Reg. 3940, effective March 10, 1989; amended at 14 Ill. Reg. 13279, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 20078, effective December 3, 1990; for a maximum of 150 days; amended at 15 Ill. Reg. 7202, effective April 30, 1991; amended at 18 Ill. Reg. 273, effective December 28, 1993; amended at 18 Ill. Reg. 8938, effective June 3, 1994; amended at 19 Ill. Reg. 1108, effective January 26, 1995; emergency amendment at 19 Ill. Reg. 12320, effective August 14, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 883, effective December 29, 1995; amended at 21 Ill. Reg. 619, effective January 1, 1997; emergency amendment at 21 Ill. Reg. 4037, effective March 14, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7436, effective 7/1/97.

## Section 102.270 Convictions of Fraud - Eligibility

- a) Multiple Convictions  
Any person who has been found guilty of a criminal violation of Article VIIIA of the Illinois Public Aid Code [305 ILCS 5/Art. VIIIA] ~~(111-Rev--Stat--1985--ch--23--pars--8-A-1-et-seq--7)~~ or of any law of the United States or another State which is substantially similar to ~~would--constitute--a--criminal--violation--of~~ Sections 8A-2 through 8A-5 of Article VIIIA, two or more times, shall be ineligible for assistance under the GA program (in the City of Chicago) or the State AABD program ~~or--the--AMF--program~~. Children for whom such a person is a caretaker relative shall remain eligible for assistance under this Code.
- b) Single Convictions of \$10,000 or more  
Any person who has been found guilty of a criminal violation of Article VIIIA of the Illinois Public Aid Code [305 ILCS 5/Art. VIIIA] ~~(111-Rev--Stat--1985--ch--23--pars--8-A-1-et-seq--7)~~, who has not previously been convicted of a criminal violation of Article VIIIA and has amassed \$10,000 or more in such criminal violation, shall be ineligible for assistance under the GA program (in the City of

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Chicago) or the State AABD program ~~or--the--AMF--program~~ for a period of two years following conviction or until the total amount of money, including the value of food stamps, is repaid, whichever first occurs. Children for whom such a person is a caretaker relative shall remain eligible for assistance.

(Source: Amended at 21 Ill. Reg. 7436, effective 7/1/97.)

## Section 102.280 Single Conviction of Fraud - Administrative Review Board

Except as provided in Section 102.270, any person who has been found guilty of a criminal violation of Article VIIIA of the Illinois Public Aid Code [305 ILCS 5/Art. VIIIA] or of any law of the United States or of any state which is substantially similar to Sections 8A-2 through 8A-5 for violations related to public assistance programs ~~(111-Rev--Stat--1985--ch--23--pars--8-A-1-et-seq--7)~~ and who has not previously been convicted for a criminal ~~criminal~~ violation of Article VIIIA or of any law of the United States or of any state which is substantially similar to Sections 8A-2 through 8A-5 for violations related to public assistance programs shall be subject to the provisions of this Section upon filing a subsequent application for public assistance under AFDC, AMF, AABD, Refugee Assistance, or the GA program (in the City of Chicago).

- a) The application will be reviewed by an Administrative Review Board (ARB) prior to approval or disapproval. The ARB shall consist of the Local Office Administrator of the local office where the application is made and a representative of the Zone Regional Office, appointed by the Zone Regional Office Administrator.
- b) The review by the ARB shall be for the purpose of determining the person's eligibility for assistance and to determine whether any additional administrative safeguards are required to prevent any future violations of Article VIIIA.
- c) The review shall be informal. The applicant will be notified, in writing, of the review at least five (5) days in advance. The review will be held in the county where the applicant resides. The applicant may attend the review, and may bring other persons to the review to speak on his or her ~~his/her~~ behalf, including an attorney, relatives or friends. The review shall be open to the public, unless the applicant and the ARB determine otherwise. The review shall be held within such a time as not to delay the decision on the application beyond the time allowed under State and Federal law and regulations. (See 89 Ill. Adm. Code 110.20.)
- d) If the ARB determines the applicant is not eligible for public assistance, based on applicable eligibility factors of the program or programs for which the applicant is applying, the applicant will be notified in the same manner as other applicants. The applicant shall be entitled to appeal any decision of denial. (The grounds for appeal and appeal procedure to be followed is found at 89 Ill. Adm. Code 102 and 104.)

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- e) If the ARB determines the applicant is eligible for public assistance, the ARB shall also determine what administrative safeguards, if any, are required to ensure that the person does not commit further violations of Article VIII.A. Such safeguards shall be based on the individual factors of each case and may include, but are not limited to, more frequent home visits, more frequent reports regarding financial or other factors, appointment of a substitute payee, or any other actions which are permitted by State and Federal law and regulations.
- f) The applicant will be notified, in writing, of the decision of the ARB and an explanation of the administrative safeguards required in his or her ~~his/her~~ case. The applicant shall be entitled to appeal any decision of the ARB.
- g) The ~~ARB~~ Administrative-Review-Board-of-the-Department shall review the necessity for any administrative safeguard every six (6) months. At the review, the necessity to continue or reverse the administrative safeguards will be determined.

(Source: Amended at 21 Ill. Reg. 7433, effective

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- 1) Heading of the Part: Lead Poisoning Prevention Code
- 2) Code Citation: 77 Ill. Adm. Code 845
- 3) Section Numbers:
- |                           |                 |
|---------------------------|-----------------|
| 845.10                    | Adopted Action: |
| 845.12                    | Amendment       |
| 845.15                    | Amendment       |
| 845.20                    | Amendment       |
| 845.21                    | New Section     |
| 845.25                    | Amendment       |
| 845.26                    | Amendment       |
| 845.28                    | Amendment       |
| 845.30                    | Amendment       |
| 845.50                    | Amendment       |
| 845.Appendix A, Exhibit A | Amendment       |
| 845.Appendix A, Exhibit B | Amendment       |
| 845.Appendix A, Exhibit C | Repealer        |
| 845.Appendix B            | Repealer        |
| 845.Appendix C            | Amendment       |
| 845.Appendix F            | New Section     |
| 845.Appendix G            | New Section     |
| 845.Appendix H            | New Section     |
- 4) Statutory Authority: The Lead Poisoning Prevention Act [410 ILCS 45]
- 5) Effective Date of Amendments: May 31, 1997
- 6) Does this Rulemaking Contain an Automatic Repeal Date? No
- 7) Does this Rulemaking Contain any Incorporation by Reference? No
- 8) Date Filed in Agency's Principal Office: May 31, 1997
- 9) Date Notice of Proposed Rules was Published in the Illinois Register: 20 Ill. Reg. 13282 - October 11, 1996
- 10) Has the Joint Committee on Administrative Rules Issued a Statement of Objection to this Rulemaking: No
- 11) Difference Between Proposal and Final Version:

In Section 845.10 the following definitions were added:

"Compliance Sampling" means the activity of taking dust wipe samples after completion of mitigation or abatement activities, for the purpose of determining compliance with the Department's standard for lead dust levels on horizontal surfaces of less than 200 micrograms

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per square foot.

"Inspection" means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigations.

"Risk Assessment" means an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards and the provision of report by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

Section 845.26(a) was revised to read as follows:

Upon notification that a child who is an occupant or frequent inhabitant of a dwelling, child care facility, or residential building is reported to have a confirmed blood lead level that would necessitate an environmental inspection pursuant to subsection (a)(1) through (3) of this Section, a representative of the Department or a delegate agency, is authorized to inspect a dwelling, residential building, or child care facility for the purpose of determining the source of lead poisoning. In the following cases, an environmental inspection and follow-up shall be conducted by the Department or delegate agency:

In Section 845.26(a)(1) has been revised by eliminating an environmental inspection for children receiving chelation therapy for lead poisoning, at the request of the child's physician, and by requiring an environmental inspection for children with a confirmed blood lead level at or above 15 mcg/dL, at the request of the child's physician.

Section 845.26(a)(2), which required an environmental inspection for a child with confirmed lead poisoning at or above 20 mcg/dL, at the request of the Department of Children and Family Services, was repealed.

Section 845.26(a)(3) was renumbered as (a)(2) and revised by requiring an environmental inspection for a child with confirmed lead poisoning at or above 25mcg/dL instead of 45mcg/dL.

Section 845.26(a)(4) was renumbered to (a)(3) and revised by requiring an environmental inspection for a child with a persistent blood lead level of 15 - 24 mcg/dL over a six-month period instead of 15-19 mcg/dL. The following language was added to Section 845.26(a)(3):

Persistent is defined, for the purpose of this rule, as the performance of two or more blood lead tests during the six month period with all confirmed results in the 15-24 mcg/dL range.

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In Section 845.28(g) construction experience was as added as an acceptable type of experience for lead risk assessor license applicants.

In Section 845.28(g) the following has been added as an acceptable combination of education and experience for lead risk assessor license applicants:

B) An Associate's degree and 2 years experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or

In Section 845.28(t)(1)(B) a provision has been added as follows for partial year licensure fees: "or, for applications received on or after December 1, a \$250 non-refundable licensure fee."

In Appendix A, Exhibit B the following has been deleted for clarification: "Environmental inspections should be carried out on the homes of all persons 15 years of age and younger having had a blood lead test analyzed and confirmed at 25 mcg/dL or higher".

12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee? All changes agreed upon by the Agency and the Joint Committee have been made.

13) Will the Rulemaking Replace an Emergency Rule Currently in Effect? No

14) Are there any other Amendments Pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking will implement an amendment to the Lead Poisoning Prevention Act by removing the mandate requiring all children under age seven to show proof of a blood test for lead poisoning prior to entering a day care center or home, preschool, or kindergarten. The new provisions require all children to show proof of a risk assessment or a blood test screening. The amendment to the Act also requires the Department to identify high risk and low risk geographic areas to further determine screening requirements. Children residing in high risk areas must have a blood test, while children residing in low risk areas must be assessed to determine possible exposure to lead hazards. The Act also requires clinical laboratory directors to report all results of blood lead tests. The information to be reported has been revised. A Section discussing methods used to investigate sources of lead poisoning has been added. A Section discussing X-Ray Fluorescence device readings and measurements has been repealed. A Section and Appendix have been added to discuss Department procedures for giving out data.

16) Information and Questions Regarding this Adopted Rulemaking Should be Directed to:



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Gail M. DeVito  
Division of Governmental Affairs  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, IL 62761  
(217) 782-6187

The full text of the Adopted Amendments begins on the following page:

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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER P: HAZARDOUS AND POISONOUS SUBSTANCES

PART 845  
LEAD POISONING PREVENTION CODE

Section	
845.10	Definitions
845.12	Incorporated Materials
845.15	Lead Screening
845.20	Reporting
845.21	Provision of Data
845.23	Laboratory Fees for Blood Lead Screening
845.25	Case Follow-Up
845.26	Inspection of Dwellings, Residential Buildings or Child Care Facilities
845.28	Lead Inspector, Risk Assessor, Worker, Contractor/Supervisor, and Contractor Licensing
845.29	Safety Guidelines for Workers Removing or Covering Leaded Soil
845.30	Mitigation or Abatement of Lead Hazards
845.31	Lead Abatement Contractor Responsibilities
845.32	Lead Contractor/Supervisor Responsibilities
845.33	Dwellings Not Requiring Abatement or Mitigation
845.40	Approval of Units of Local Government or Health Departments as Delegate Agencies to Administer and Enforce the Lead Poisoning Prevention Act
845.50	Permissible Limits of Lead in and about Dwellings, Residential Buildings or Child Care Facilities
845.60	Placarding of Dwellings (Repealed)
APPENDIX A	Instructions for Childhood Blood Lead Poisoning Reporting System
EXHIBIT A	Instructions for Completing the Laboratory Based Report of Childhood Lead Poisoning
EXHIBIT B	Instructions for Submitting the Medical Follow-Up Data for Children with of--Childhood Blood Lead Levels $\geq$ of 15 mcg/dL mcg/dl--and--Above
EXHIBIT C	Instructions for Reporting Information by Delegate Agencies on Environmental Inspection for Cases of 20 mcg/dl and Above (Repealed)
APPENDIX B	Testing for Lead in Paint by Portable X-Ray Fluorescence Lead in Paint Analyzer (XRF) (Repealed)
APPENDIX C	Diagrams of Building Components Testing--for--Head--Using-a Spectrum-Analyzer
ILLUSTRATION A	Inspection Forms and Diagram of Building Components (Repealed)
APPENDIX D	Recommended Setup and Use of a Negative Pressure System
ILLUSTRATION A	Examples of Negative Pressure Systems

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APPENDIX E  
APPENDIX F  
APPENDIX G  
APPENDIX H

Soil Sampling  
 Childhood Lead Risk Assessment Questionnaire  
 Information Agreement  
 Childhood Lead Poisoning Assessment and Screening Algorithm

AUTHORITY: Authorized by and implementing the Lead Poisoning Prevention Act (410 ILCS 45).

SOURCE: Adopted July 15, 1976; amended at 2 Ill. Reg. 43, effective October 23, 1978; rules repealed; new rules adopted and codified at 6 Ill. Reg. 14849, effective November 24, 1982; amended at 7 Ill. Reg. 7652, effective June 14, 1983; amended at 8 Ill. Reg. 8242, effective May 25, 1984; amended at 10 Ill. Reg. 5138, effective April 1, 1986; amended at 17 Ill. Reg. 1884, effective February 1, 1993; amended at 19 Ill. Reg. 238, effective December 31, 1994; amended at 21 Ill. Reg. ~~7444~~, effective ~~MAY 2, 1997~~.

NOTE: In this Part, superscript numbers or letters are denoted by parenthesis; subscript are denoted by brackets.

## Section 845.10 Definitions

"Act" means the Lead Poisoning Prevention Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1301 et seq.) [410 ILCS 45].

"Assessment" means administration of the risk assessment questionnaire to the parent.

"Chemical Spot Test" means the use of sodium rhodizonate to obtain a qualitative determination of lead.

"Child" means a person under the age of 16.

"Child Care Facility" means any structure used by a child care provider licensed by the Department of Children and Family Services or public school structure frequented by children under 6 years of age. (Section 2 of the Act)

"Compliance Sampling" means the activity of taking dust wipe samples after completion of mitigation or abatement activities, for the purpose of determining compliance with the Department's standard for lead dust levels or horizontal surfaces of less than 200 micrograms per square foot.

"Confirmed blood lead level" means that an elevated blood lead level is confirmed by a venous second blood lead test. ~~A confirmed blood lead test for levels over 20 mcg/dl is a venous specimen.~~

"Defective Surface" means peeling, flaking, chalking, scaling or

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chipping paint; paint over crumbling, cracking or falling plaster or substrate with holes in it; paint over a defective or deteriorating plaster; or paint that is damaged or worn down in any manner such that a child can get paint from the damaged area.

"Delegate Agency" means a unit of local government or health department approved by the Department to carry out the provisions of the Lead Poisoning Prevention Act. (Section 2 of the Act)

"Department" means the Department of Public Health of the State of Illinois. (Section 2 of the Act)

"Director" means the Director of the Department of Public Health of the State of Illinois.

"Dwelling" means any structure all or part of which is designed or used for human habitation. (Section 2 of the Act)

"Elevated results" means a blood lead test result of 10 micrograms/deciliter or higher.

Encapsulant means any liquid applied product which covers, seals, or encapsulates a lead-based painted surface in a manner which is designed to reduce human exposure to lead.

"Exposed Surface" means any interior or exterior surface of a dwelling or residential building. (Section 2 of the Act)

"Health Care Provider" means any person providing health care services to children, who is authorized pursuant to the Clinical Laboratory Act to request the testing of specimens, but does not include dentists. "Health Care Provider" includes podiatrists and physicians other than those licensed to practice medicine in all its branches.

"HEPA Vacuum Equipment" means vacuuming equipment with a high efficiency particulate air filter capable of trapping and retaining 99.97 percent of particles greater than 0.3 micrometers in mass median aerodynamic equivalent diameter.

"Inspection" means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigations.

"Intact surface" means a surface with no loose, peeling, chipping or flaking paint. Intact surfaces that are painted must be free from crumbling, cracking or falling plaster and should not have any holes. Intact surfaces must not be damaged or worn down in any way that would make paint from the damaged area accessible to children.

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"Lead Abatement" means any activity that will result in the removal of windows, walls, floors, ceilings or exterior surfaces which may result in the creation of a hazardous level of lead chips, flakes, dust or any other form of lead substance that can be ingested or inhaled during such activity.

"Lead Abatement Contractor/Supervisor" means any person employed by a lead abatement contractor and licensed by the Department to perform lead abatement and mitigation, and supervise lead abatement workers who perform lead abatement and mitigation.

"Lead Bearing Substance" means any dust on surfaces or in furniture or other nonpermanent elements of the dwelling and any paint or other surface coating material containing more than five-tenths of one percent (0.5%) lead by weight (calculated as lead metal) in the total nonvolatile content of liquid paint. The term "lead bearing substance" also includes lead bearing substances containing greater than one milligram per square centimeter or any lower standard for lead content in residential paint as may be established by federal law or regulation; or more than 1 milligram per square centimeter in the dried film of paint or previously applied substance; or object containing lead in excess of the amount specified in this Part or a lower standard for lead as may be established by federal regulation. (Section 2 of the Act)

"Lead Hazard" means a lead bearing substance that poses an immediate health hazard to humans. (Section 2 of the Act)

"Lead Inspector" means an individual who has been trained by a Department approved training program to conduct inspections, sample for the presence of lead in dust and soil, and conduct abatement clearance testing.

"Lead Management Plan" means a written statement that describes how an intact surface with lead-based paint will be monitored to assure that, if the intact surface becomes defective, the defective surface will be abated or mitigated.

"Lead Mitigation" means the remediation of a lead hazard so that the lead bearing substance does not pose an immediate health hazard to humans. A lead hazard is deemed to have been mitigated if the surface that is the source of the lead hazard is no longer in a condition that produces a hazardous level of lead chips, flakes, dust or any other form of lead substances, that can be ingested or inhaled by humans; or if the lead surface is accessible to children, the surface coating is covered or the access to the lead surface by children is otherwise prevented.

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"Lead Poisoning" means the conditions of having blood lead levels in excess of those considered safe under this Part (see "permissible limits") and federal rules and regulations. (Section 2 of the Act)

"Lead Risk Assessor" means an individual who has been trained by a Department approved training program to conduct risk assessments, sample for the presence of lead in dust and soil and conduct abatement clearance testing.

"Local Health Department" means the health department or board of health as recognized by the Department which has jurisdiction over the particular geographical area in which the person lives.

"Major Lead Abatement or Mitigation" means any abatement or mitigation activity that will result in the removal of windows, walls, floors, ceilings or exterior surfaces which may result in the creation of a hazardous level of lead chips, flakes, dust or any other form of lead substance that can be ingested or inhaled.

"Notice" means any written notification, as specified in this Part, to be issued by the Department or a delegate agency.

"Occupant" means any person who lives in a dwelling as defined in this Part.

"Owner" means any person, who alone, jointly or severally with others:

Has legal title to any dwelling or residential building, with or without accompanying actual possession of the dwelling or residential building, or

Has charge, care or control of the dwelling or residential building as owner or agent of the owner, or as executor, administrator, trustee, or guardian of the estate of the owner. (Section 2 of the Act)

"Permissible limits" for reporting purposes means a confirmed blood lead level (PbB) of less than 10 micrograms/deciliter (mcg/dL mcg/dL) of whole blood in a child under age 16 years, less than 10 mcg/dL mcg/dL for a pregnant or breast-feeding woman and less than 25 mcg/dL mcg/dL for all other persons.

"Person" means any one or more natural persons, legal entities, governmental bodies, or any combination.

"Residential Building" means any room, group of rooms, or other interior areas of a structure designed or used for human habitation; common areas accessible by inhabitants; and the surrounding property



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(Source: Amended at 21 Ill. Reg. 7444 effective  
MAY 31 1997)

Section 845.15 Lead Screening

a) Every physician licensed to practice medicine in all its branches or health care provider shall screen children 6 months through to 6 years of age for lead poisoning (Section 6.2 of the Act), using a blood lead measurement, in accordance with the following criteria for children residing in high risk areas groups. Physicians and health-care providers shall screen children with the following risk factors: Children residing in low risk areas shall be assessed for their risk for lead exposure by providing the information contained in the Childhood Lead Risk Assessment Questionnaire (Appendix F).

- 1) Children determined to be at high risk based upon an assessment shall have a blood lead measurement.
- 2) Children who reside in a high risk area shall have a blood lead measurement.
- 3) Children who have elevated screening results have follow-up testing consistent with the algorithm attached (Appendix H).
- 4) Elevated capillary results 10 mcg/dL and above shall be confirmed by a venous sample.
- 1) Children age six months through six years who live in or are frequent visitors to older housing with chipped peeling or powdering paint.
- 2) Children age six months through six years who are siblings visitors or playmates of children with known lead poisoning or who are occupants of the same residential buildings as children with known lead poisoning.
- 3) Children under the age of six years who live in older homes built prior to 1978, which have been renovated or remodeled.
- 4) Children age six months through six years who live near lead smelters or other lead industries or whose parents or other household members participate in lead-related occupations or hobbies.
- 5) Children age six months through six years who live near major highways or hazardous waste sites where lead is a major pollutant.

b) Each licensed, registered, or approved health care facility serving children from 6 months through to 6 years of age, including but not limited to, health departments, hospitals, clinics, and health maintenance organizations approved, registered or licensed by the Department shall take the appropriate steps (referral of children with identified risk factors as defined in Appendix F subsection (a) above to a physician or health care provider) to ensure that patients receive lead poisoning screening, where medically indicated or appropriate, consistent with the risks factors in the Childhood Lead Risk Assessment Questionnaire (see Appendix F), subsections (a) and (b).

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or structures. (Section 2 of the Act)

"Risk Assessment" means an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards and the provision of a report, by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

"Screening" means a blood lead testing by venous or capillary methodology.

"STELLAR" means the Systematic Tracking of Elevated Lead Levels and Remediation software developed and provided by the Centers for Disease Control and Prevention for local agencies to use in tracking lead poisoning cases.

"Training Hour" means at least 50 minutes of actual teaching, including time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and/or hands-on experience.

"Work Area" means exterior areas where lead abatement activities are conducted.

"Work Site" means the room or rooms undergoing lead abatement activities in a single family dwelling or the room or rooms and common area of a residential building.

(Source: Amended at 21 Ill. Reg. 7444, effective  
MAY 31 1997)

Section 845.12 Incorporated Materials

- a) The following materials are incorporated by reference in this Part:
- 1) Occupational Safety and Health Administration (OSHA) Lead Standard 1910.1025 and 29 CFR 1926.62 (1993);
  - 2) Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (June 1995) ---Interim---Guidelines---for---Hazard Identification---and---Abatement---in---Public---and---Indian---Housing Revised Chapters 5-9, 9-10 and 11 (1994);
  - 3) Occupational Safety and Health Administration (OSHA) regulations at 29 CFR 1910.1001 and 29 CFR 1926.62 (1993);
  - 4) OSHA Interim Final Rule for Lead in Construction - 29 CFR 1926.62.
- b) All incorporations by reference of federal regulations or standards and the standards of nationally recognized organizations refer to the regulation or standard on the date specified and do not include any additions or deletions subsequent to the date specified.

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through-(a)(5)-above- (Section 6.2 of the Act) Patients are those children receiving complete health care provided by the approved health care facility.

- c) Physicians and health care providers may assess screen children 7 6 years of age and older in accordance with the Risk Assessment Questionnaire (see Appendix F), following--criteria--for--high--risk groups--

- 1) Children--who--white--under--age--six--years--lived--in--or--frequently visited--housing--built--prior--to--1978--in--which--there--was--chipped peeling--or--powdering--paint--
- 2) Children--whose--younger--siblings--have--been--diagnosed--with--lead poisoning--and--meet--the--conditions--of--subsection--(c)(11)--above--
- 3) Children--who--are--occupants--of--the--same--residential--building--as--a child--with--known--lead--poisoning--
- 4) Children--who--white--under--age--six--years--lived--near--or--still--live near--smelting--plants--or--other--lead--industry--or--near--major highways--
- 5) Children--who--lived--in--an--older--home--during--remodeling--or renovation--

- d) By January 1, 1993, each day care center, day care home, preschool, nursery school, kindergarten, or other child-care facility, licensed or approved by the State, including such programs operated by a public school district, shall include a requirement that each parent or legal guardian of a child between the ages of 6 months through 6 years provide a statement from a physician or health care provider that the child has been screened or assessed for lead poisoning. This statement shall be provided prior to admission and subsequently in conjunction with physical examinations required by Section 665.140 of the Department's rules entitled Child Health Examination Code (77 Ill. Adm. Code 665). (Section 7.1 of the Act)

- e) Nothing in this Part shall be construed to require any child to undergo a lead blood level screening or test whose parent or guardian objects to such screening on the grounds that the screening or test conflicts with his or her religious beliefs. (Section 7.1 of the Act)

(Source: Amended at 21 Ill. Reg. 7444, effective MAY 31 1997)

## Section 845.20 Reporting

- a) The Department requires the following persons and facilities to report to the Department all blood lead levels (PbB) in-excess-of-the-permissible-limit:

- 1) Every physician who diagnoses, or health care provider, nurse, hospital administrator, or public health officer who has verified information of diagnoses any person who has to-have a level of lead in the blood in excess of the permissible limits, as defined in Section 845.10, is required to report pursuant to this

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Section, starting with a confirmed lead level of 10 micrograms/per deciliter (mcg/dL meg/dt). (Section 7 of the Act) If the analysis has been performed at the State laboratory, or the provider has ascertained that the clinical laboratory where specimens are processed electronically reports all blood lead level results to the Department, then duplicate reporting of elevated levels is not required.

- 2) Directors of clinical laboratories who have verified information of any level of lead in the blood are required to report the results to the Department within 48 hours. A--nurse--hospital administrator--director--of--a--clinical--laboratory--or--public--health officer--who--has--verified--information--of--the--existence--of--any person--found--or--suspected--to--have--a--level--of--lead--in--the--blood--in excess--of--the--permissible--limits-- Verification information shall consist of the a--confirmed blood lead level in--excess--of--the permissible--limits-- and shall include the name, address, date of birth, sex, race, blood-lead-level, date of test, test type, date of report, physician physician and/or clinic with address, and the reporting agency. (Section 7 of the Act)

- b) Reports required pursuant to this Section shall be made to the Department and all reported information, including the source of such information, received by the Department shall be considered confidential in nature. Any information submitted to a laboratory at the request of the Department and in accordance with this Part shall be treated as confidential by the laboratory which receives the information on behalf of and as required by the Department. The reported information under this Part shall be confidential and subject to good faith immunity in accordance with Part 21 of Article VIII of the Code of Civil Procedure [735 ILCS 5/Art. VIII, Part 21] and the Communicable Disease Report Act [745 ILCS 45]. It is the right, however, of any patient to obtain their own data.

- c) Reports required pursuant to this Section shall be submitted within 48 forty-eight hours of receipt of verification thereof. Methods of submission can include written or electronic reporting as detailed in Section 845. Appendix A. Reports so submitted shall be considered received by the Department upon entry into the Data Processing system of the Department.

- d) Reports of blood lead levels in-excess-of-the-permissible-limit shall be on a form or in a format provided by the Illinois Department of Public Health (See Appendix A).

(Source: Amended at 21 Ill. Reg. 7444, effective MAY 31 1997)

## Section 845.21 Provision of Data

- a) All reports issued by the Department, which are aggregated to make it impossible to identify any patient, reporting entity, or primary care



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giver shall be made available to the public pursuant to the Freedom of Information Act.

- b) All requests by medical or epidemiologic researchers for confidential data must be submitted in writing to the Department. The request must include a study protocol which contains: objectives of the research; rationale for the research including scientific literature justifying current proposal; overall study methods, including copies of forms, questionnaires, and consent forms used to contact facilities, physicians or study subjects; including methods for documenting compliance with 42 CFR 28.4(a) through (j), 28.6(a) and (b), 28.7(a) and (b)(1); methods for the processing of data; storage and security measures taken to insure confidentiality of patient identifying information; time frame of the study; a description of the funding source of the study (e.g. federal contract); the curriculum vitae of the principal investigator and list of collaborators. In addition, the research request must specify what patient identifying information is needed and how the information will be used. Identifying information concerning the reporting entity will not be made available by the Department. Identifying information is defined as any information, collection, or groups of data from which the identity of the patient or reporting entity to which it relates may be discerned, e.g. name, address or ID number.

- c) All requests to conduct research and modifications to approved research proposals involving the use of data which includes patient identifying information shall be subject to a review to determine compliance with the following conditions:

- 1) The request for patient identifying information contains stated goals or objectives.
- 2) The request documents the feasibility of the study design in achieving the stated goals and objectives.
- 3) The request documents the need for the requested data to achieve the stated goals and objectives.
- 4) The requested data can be provided within the time frame set forth in the request.
- 5) The request documents that the researcher has qualifications relevant to the type of research being conducted.
- 6) The research will not duplicate other research already underway using the same data when both require the contact of a patient involved in the previously approved concurrent research; and
- 7) Other such conditions relevant to the need for the patient identifying information and the patient's confidentiality rights because the Department will only release the patient identifying information that is necessary for research.

- d) The Director or his designee will review the request and approve or deny the request. The Information Agreement (Section 845, Appendix G) must contain the signatures of the Director and the applicant before data can be provided. Reasons for denial may include the following:

- 1) if security measures are unsatisfactory in the opinion of the

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Department;

- 2) if data requested is unavailable or unreliable in the opinion of the Department;
- 3) if the stated purpose does not meet the Department's mission statement;
- 4) if the Department is unable to provide the data in the requested format;
- 5) if the applicant is not an accredited or licensed research institution, a government agency, legislative commission, or other organization with the ability to conduct research such as a university research center or private research firm; or
- 6) if the information cannot be provided by the requested date.

Denied requests may be revised and resubmitted.

e) Information Agreements

- 1) The Department will enter into information agreements for all approved research requests. These agreements shall specify the information that is being released and how it can be used in accordance with the standards in subsection (c) of this Section. In addition, the researcher shall include an assurance that:

A) use of data is restricted to the specifications of the protocol;

B) any and all data which may lead to the identity of any patient, research subject, physician, other person, or hospital is strictly privileged and confidential and the researcher agrees to keep all such data strictly confidential at all times;

C) all officers, agents and employees will keep all such data strictly confidential. The researcher will communicate the requirements of this Section to all officers, agents and employees, will discipline all persons who may violate the requirements of this Section, and will notify the Department in writing within 48 hours after any violation of this Section, including full details of the violation and corrective actions to be taken;

D) all data provided by the Department pursuant to the agreement may only be used for the purposes named in the agreement and that any other or additional use of the data may result in immediate termination of the agreement by the Department; and

E) all data provided by the Department pursuant to the agreement is the sole property of the Department and may not be copied or reproduced in any form or manner, except for research use by the researcher, and that all data, copies and reproduction of the data made for the researcher's internal use shall be returned to the Department upon termination of the agreement.

- 2) Any departures from the approved protocol must be submitted in writing and approved by the Director or his designee in



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accordance with subsections (c) and (d) of this Section prior to initiation. No identifying information may be released by a researcher to a third party.

g) Upon request, the Department shall disclose individual patient or reporting entity information to the reporting entity, which originally supplied that information to the Department.

h) The Department, by signed and reciprocating agreement, may disclose individual patient information concerning residents of another state to the Childhood Lead Poisoning Prevention Program in the individual's state of residence only if the recipient of such information is legally required to hold such information in confidence and provides protection from disclosure of patient identifying information equivalent to the protection afforded by the Illinois law.

i) The identity of any person (or any group of facts that tends to lead to the identity of any person) whose blood test result is submitted to the Illinois Childhood Lead Poisoning Prevention Program is confidential and shall not be open to public inspection or dissemination. Such information shall not be available for disclosure, inspection or copying under the Freedom of Information Act or the State Records Act. All information for specific research purposes may be released in accordance with procedures established by the Department in this Section.

AGENCY NOTE: The patient identifying information submitted to the Department by those entities required to submit information under the Act and this Part is to be used in the course of medical study under Part 21 of Article VIII of the Code of Civil Procedure. Therefore, this information is privileged from disclosure by Part 21 of Article VIII of the Code of Civil Procedure.

(Source: Added at 21 Ill. Reg. 7444, effective MAY 31 1999)

**Section 845.23 Laboratory Fees for Blood Lead Screening**

a) The fee schedule for a sample of blood submitted to the Department for blood lead analysis and necessary follow-up shall be \$25.00. The fee shall be assessed to the provider who submits the sample. Statements of fee assessment shall be mailed to the submitter of the specimens on a monthly basis. Payment and/or appropriate information as required in subsections (b) and (c) of this Section shall be submitted to the Department upon receipt of the monthly statement.

b) The Medicaid Recipient Identification Number may be provided for those Medicaid eligible recipients in lieu of payment.

c) Medically indigent recipients shall be those recipients with family incomes under 185% of the federal poverty guidelines, not eligible for Medicaid, and screened by local health departments, Rural Health Clinics, Federally Qualified Health Centers and facilities designated by the Department of Health and Human Services as look-alike Federally Qualified Health Centers. No fee shall be charged for these

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d) Fees collected from the Department's testing service shall be placed in a special fund in the State Treasury known as the Lead Poisoning Screening, Prevention and Abatement Fund.

(Source: Amended at 21 Ill. Reg. 7444, effective MAY 31 1999)

**Section 845.25 Case Follow-Up**

a) The delegate agency shall conduct interviews with the parent or guardian of cases or attending physicians as needed to assure the accuracy and completeness of reports and to perform the activities of case follow-up for confirmed elevated blood lead levels above 15 mcg/dL mcg/dL.

b) The delegate agency shall perform the following activities concerning patient or case follow-up:

- 1) trace the case;
- 2) counsel the parent or guardian of the case;
- 3) educate the parent or guardian of the case;
- 4) interview the parent or guardian of the case for purposes of collecting, verifying or completing the information identified in Appendix A, Exhibit A and Exhibit B of this Part;
- 5) refer the parent or guardian of the case for medical treatment when appropriate; and
- 6) submit completed reports to the Department as specified in the agreement between the delegate agency and the Department.

c) Any delegate agency may establish fees, according to a reasonable fee structure, to be determined by the delegate agency, to cover the costs of drawing blood for blood lead screening and any necessary follow-up. (Section 7.2 of the Act) Necessary follow-up includes individual case management and environmental management. Fees may not be charged to Medicaid recipients in accordance with Federal regulations.

(Source: Amended at 21 Ill. Reg. 7444, effective MAY 31 1999)

**Section 845.26 Inspection of Dwellings, Residential Buildings or Child Care Facilities**

a) Upon notification that a child who is an occupant or frequent inhabitant of a dwelling, child care facility, or residential building is reported to have a confirmed blood lead level that would necessitate an environmental inspection pursuant to subsections (a)(1) through (3) of this Section, a representative of the Department or a delegate agency is authorized to inspect a dwelling, residential building, or child care facility for the purpose of determining the source of lead poisoning. A--representative-Department-or-delegate

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agency may, after notification that a child who is an occupant or frequent inhabitant of a dwelling, child care facility, or residential building, is found to have a confirmed blood lead level of 20 mcg/dl or higher, inspect the dwelling residential building or child care facility for the purpose of determining the source of lead poisoning. In the following cases, an environmental inspection and follow-up shall be conducted by the Department or delegate agency:

- 1) a child with a confirmed blood lead level at or above 15 mcg/dl receiving chelation therapy for lead poisoning whose physician requests an inspection to determine if the child should be removed from the dwelling or residential building due to a lead hazard;
  - 2) a child with confirmed lead poisoning at or above 25 mcg/dl 45 mcg/dl; or at the request of the Department of Children and Family Services;
  - 23) a child with confirmed lead poisoning at or above 25 mcg/dl 45 mcg/dl. An environmental inspection is also recommended for each case in which a child has confirmed lead poisoning at or above 20 mcg/dl 45 mcg/dl; or
  - 24) a child with a persistent blood lead level of 15-24 19 mcg/dl 45 mcg/dl over a six-month period. Persistent is defined, for the purpose of this Part, as the performance of two or more blood lead tests during the six-month period with all confirmed results in the 15-24 mcg/dl range.
- b) An inspection of dwellings, residential buildings or child care facilities to determine the source of lead poisoning as required by this Section shall consist of, at a minimum, the following:
- 1) An interview with the owner or occupant about dwelling or facility use patterns and potential lead hazards including inquiries regarding:
    - A) improperly glazed pottery;
    - B) ethnic or folk medicines;
    - C) hobbies and occupations;
    - D) other dwellings;
    - E) international travel;
  - 2) A visual assessment of the condition of the building, appurtenant structures and painted surfaces; and
  - 3) Environmental sampling of deteriorated paint and dust based upon subsections (b)(1) and (2) of this Section.
- c) Sampling shall be conducted by at least one of the following methods or a combination thereof:
- 1) X-Ray fluorescence device readings taken according to manufacturer's instructions;
  - 2) Dust wipe samples taken for laboratory analysis;
  - 3) Paint samples taken for laboratory analysis;
  - 4) Soil samples taken for laboratory analysis (Samples may be taken at the discretion of the licensed lead inspector.);
  - 5) Water samples taken for laboratory analysis (Samples may be taken

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at the discretion of the licensed lead inspector.).

- db) Following an inspection, the Department or its delegate agency shall:
- 1) Prepare an inspection report which shall:
    - A) State the address of the dwelling unit;
    - B) Describe the scope of the inspection, the inspection procedures used, and the method of ascertaining the existence of a lead bearing substance in the dwelling unit;
    - C) State whether any lead bearing substances were found in the dwelling unit;
    - D) Describe the nature, extent, and location of any lead bearing substance that is found;
    - E) State either that a lead hazard does exist or that a lead hazard does not exist. If a determination is made that a lead hazard does exist, the report shall describe the source, nature and location of the lead hazard. The existence of intact lead paint does not alone constitute a lead hazard for the purposes of this Section;
    - F) Give the name of the person who conducted the inspection and the person to contact for further information regarding the inspection and the requirements of this Part and the Act.
  - 2) Mail or otherwise provide a copy of the inspection report to the property owner and to the occupants of the dwelling unit. If a lead bearing substance is found, the Department or its delegate agency shall attach a brochure containing information on lead abatement and mitigation to the copy of the inspection report provided to the property owner and the occupants of the dwelling unit. (Section 8 of the Act)

(Source: Amended at 21 Ill. Reg. 74.01, effective 10/1/97)

### Section 845.28 Lead Inspector, Risk Assessor, Worker, Contractor/Supervisor, and Contractor Licensing

- a) A person shall be licensed by the Department prior to engaging in lead inspection and compliance sampling activities. After October 31, 1997, a person shall be licensed by the Department, in accordance with subsection (g) of this Section, prior to engaging in risk assessor activities. The Department shall issue a Lead Inspector's License to qualified applicants. In order to qualify, an applicant shall:
  - 1) be at least 18 years of age;
  - 2) attend a Department approved course, in accordance with subsection (f) of this Section, and pass the examination administered at the conclusion of the course;
  - 3) submit a recent 1" x 1" photograph of applicant for proper identification of the licensee. The license shall not be issued without an identification photograph;
  - 4) attend a three day Department-approved course, in accordance with



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- subsection (f)(2) of this Section; and
- 5) submit to the Department the required fee.
- b) Application. Each person desiring licensure as a lead inspector or risk assessor shall make application to the Department on forms provided by the Department. Each application shall be accompanied by a \$100 nonrefundable fee, and a certificate verifying satisfactory completion of a Department-approved lead inspector training course within one year prior to application for a lead inspector license. In addition to the application requirements for a lead inspector's license, an application for the risk assessor's license shall include a \$100 non-refundable fee and a certificate verifying satisfactory completion of a Department-approved risk assessor training course within one year prior to application. Employees of the Illinois Department of Public Health, a delegate agency, or a local health department shall be exempt from licensure fees when such employees' licenses are used only for purposes related to employment at the above-mentioned agencies.
- c) Reciprocity. Each applicant for licensure who is licensed or certified as a lead inspector for lead inspection or risk assessor in another state may request reciprocal licensure. The Department shall evaluate the requirements for licensure in such other state and shall issue the license if the Department determines that the requirements for licensure in such other state are equal to or greater than the requirements for licensure in Illinois. Each applicant for licensure pursuant to this Section shall submit an application accompanied by a nonrefundable fee of \$100.
- d) All licenses shall be renewed annually. All licenses shall expire on January 31 of each year, except licenses issued after October 31 and before February 1 shall expire on the next following January 31. The licensee shall be charged a nonrefundable fee of \$15 for the issuance of a duplicate license.
- e) Renewal of License. Any license issued pursuant to these rules may be renewed if the licensee submits the application and a \$100 nonrefundable fee as required by subsection (a)(5) of this Section and has a certificate of completion of a Department-approved one day (8 hour) lead inspector or risk assessor refresher course. The refresher course content shall be the same as that indicated in subsection (f) of this Section for the inspector's license, or subsection (j) of this Section for the risk assessor's license below. If a renewal application is received after January 1, the applicant shall pay a nonrefundable late fee of \$15 in addition to the renewal fee of \$100. An applicant whose license has been expired for a period less than 2 years may apply to the Department for reinstatement of his license. The Department shall issue such renewed license provided the applicant pays to the Department all lapsed license fees, plus a reinstatement fee of \$15. A license which has been expired for more than 2 years may be restored only by submitting a new application as specified in subsection (b) of this

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- Section and successfully passing an approved lead inspection training course for a lead inspector's license and the additional risk assessor training course for a risk assessor's license and reapplying.
- f) Approved Course Content. All lead inspectors and risk assessors shall have taken a qualifying training course which meets the requirements set out in this subsection and shall have received a certificate of completion. A training course in lead inspection shall:
- 1) Receive approval from the Department; and
  - 2) Provide at least a three day course (equivalent to 24 hours of instruction) for individuals without experience as required in this Section, two days of which are dedicated to the topics specified in subsections (f)(2)(C), (E) and (f)(2)(F) of this Section:
    - A) health effects of lead exposure;
    - B) requirements of regulations and standards established by the Department;
    - C) lead sampling techniques;
    - D) chemistry related to the lead abatement industry;
    - E) construction techniques;
    - F) inspection and clearance sampling techniques as described in Appendices B and C; and
    - G) safety.
- g) Licensed lead inspectors may use inspection forms and methods specified in Appendices B and C and Illustration A in Appendix C of this Part.
- g) The Department shall issue a risk assessor's license to qualified applicants. In order to qualify, an applicant shall:
- 1) Comply with the requirements for the lead inspector's license specified in subsections (a)(1) through (5) of this Section. The Department may approve a third party examination (e.g., an examination required by federal law under 40 CFR 745) for any license required by Section 815.28 for lead abatement or mitigation services.
  - 2) Attend a two-day Department-approved risk assessor training course that covers the curriculum specified in subsection (i) of this Section;
  - 3) Possess, at a minimum, one of the following combinations of education and experience:
    - A) A bachelor's degree and one year of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or
    - B) An Associate's degree and 2 years of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or
    - C) Certification as an industrial hygienist, professional engineer, registered architect or certification in a related engineering/health/environmental field (e.g., safety professional, environmental scientist); or



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- D) A high school diploma (or equivalent), and at least three years of experience in a related field (e.g., lead, asbestos, or environmental remediation work).
- h) A training course in lead risk assessment shall receive approval from the Department when the following criteria have been met:
- 1) A training manager who is responsible for compliance with all requirements in this Section has been designated;
  - 2) A principal instructor has been designated;
  - 3) The responsibilities of the training manager and principal instructor are described;
  - 4) Documentation of the qualifications of the training manager and principal instructor is provided;
  - 5) Adequate facilities for classroom and field hands-on training are specified;
  - 6) A minimum of 16 hours, in not less than two days, with a minimum of 4 hours of hands-on instruction are provided;
  - 7) A final exam with criteria for pass/fail is administered;
  - 8) A model of the certificate of course completion with name/address/phone number of the training course provider and student information (name, social security number, dates of course, and indication of pass/fail) is submitted to the Department for each student after course completion;
  - 9) A quality control plan to improve the course is provided;
  - 10) Copies of student and instructor manuals and course agenda are included;
  - 11) A class schedule is included;
  - 12) Assurance to the Department that a lead inspector training course certificate of completion is required of each applicant as a prerequisite for risk assessor training course attendance;
  - 13) The required application fee as specified in subsection (1) of this Section has been received by the Department.
- i) The curriculum for the risk assessor training course shall include the following:
- 1) Role and responsibilities of the risk assessor;
  - 2) Collection of background information to perform a risk assessment;
  - 3) Sources of environmental lead contamination (paint surface dust and soil, water, air, packaging, and food);
  - 4) Visual inspection procedures for the purpose of identifying potential sources of lead-based paint hazards;
  - 5) Lead hazard screening protocol;
  - 6) Sampling for sources of lead exposure;
  - 7) Interpretation of lead-based paint and other lead sampling results, including all applicable State and federal guidance pertaining to lead-based paint hazards (i.e., federal statutes and regulations);
  - 8) Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce

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- lead-based paint hazards; and
- 9) Preparation of a final risk assessment report.
  - j) A refresher training course in risk assessment shall receive approval from the Department when the following criteria have been met:
    - 1) Cover the same topics as the full length course specified in subsection (i) of this Section, plus current safety practices, current laws and regulations, and current technologies;
    - 2) Be at least 8 hours long;
    - 3) Provide a hands-on assessment and a course test;
    - 4) Apply concurrently for approval with the initial lead inspector course; or
    - 5) Submit the information contained in subsection (h)(1) through (10) except (6) of this Section in a written application to the Department.
  - k) Suspension, revocation, or denial of training courses. The Department may suspend, revoke or deny approval of any lead training course for the following reasons:
    - 1) Misrepresentation of the contents of a training course to the Department and/or the student population;
    - 2) Failure to submit required information or notifications in a timely manner;
    - 3) Failure to maintain required records;
    - 4) Falsified records, instructor qualifications, or other related information or documentation;
    - 5) Failure to comply with the training standards and requirements in this Section;
    - 6) Failure to comply with federal, State, or local lead-based paint statutes or regulations.
  - l) Application fees for approval and renewal of lead training courses:
    - 1) All current Department approved lead training courses will expire on October 15, 1997.
    - 2) After October 15, 1997, all initial lead training course application fees will be \$200 per discipline and all lead refresher training course application fees will be \$100 per discipline.
    - 3) Approvals for lead training courses shall be issued for one year. Applications for renewal of all lead training courses must be received, with fees, by September 15 of each year. If the renewal application is received after September 15, a \$50 late fee shall be charged for each late training course application.
    - 4) Application fees for all lead training courses, effective October 15, 1998, will be:
      - A) Initial training course for all disciplines, \$500 per course.
      - B) Refresher training course for all disciplines, \$250 per course.
      - C) Late fees for all disciplines, \$50 per course.
  - m) <sup>h)</sup> Lead Worker and Contractor/Supervisor Licensing. A lead worker or

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lead contractor/supervisor shall be licensed by the Department prior to engaging in lead abatement or mitigation activities. Such licenses are nontransferable and shall be available at the lead abatement contractor's primary place of business for inspection by the Department or delegate agency.

n)†† The Department shall issue a Lead Worker License or Lead Contractor/Supervisor License to qualified applicants who comply with the requirements of subsections (a)(1), (3), and (5) of this Section. In addition, applicants shall attend a Department-approved course, in accordance with subsections (s)††(2)(A) through (K) of this Section for lead workers and subsections (s)††(2) and (3) of this Section for contractors/supervisors and shall pass the examinations administered at the conclusion of the course.

o)†† Application. Each person desiring licensure as a lead worker or lead contractor/supervisor shall make application to the Department on forms or in a format provided by the Department. Each application shall be accompanied by a nonrefundable fee of \$25-00 for a Lead Worker License or \$50-00 for a Lead Contractor/Supervisor License, and a certificate verifying completion of a Department-approved course, within one year prior to application, except as provided in this subsection. Employees of the Department, a delegate agency, or a local health department shall be exempt from licensure fees when such employee's license is used only for purposes related to employment at the above-mentioned agencies. A course taken after 1991 may qualify an applicant for licensure, provided the course is determined by the Department to be substantively equivalent to the requirements for approved course content specified in subsection (s)†† of this Section. Only ~~After-duty-17-1995~~<sup>only</sup> Department-approved training courses will be accepted for application for licensure.

p)†† Reciprocity. Each applicant for licensure who is licensed or certified as a lead worker or lead contractor/supervisor in another state may request reciprocal licensure. The Department shall evaluate the requirements for licensure in such other state and shall issue the license if the Department determines that the requirements for licensure in such other state are equal to or greater than the requirements for licensure in Illinois. Each applicant for licensure pursuant to this subsection shall submit an application, on forms or in a format provided by the Department, accompanied by a nonrefundable fee of \$25-00 for a Lead Worker License and \$50-00 for a Lead Supervisor/Contractor License.

q)†† Renewal of License. All Lead Worker and Lead Contractor/Supervisor Licenses shall be renewed annually. All licenses shall expire on March 31 of each year, except licenses issued after December 31 and before April 1 shall expire on the next following March 31. Any current license issued pursuant to this Section may be renewed if the licensee submits, prior to March 1, a renewal application on forms or in a format provided by the Department; a nonrefundable fee of \$25-00 for a Lead Worker License or \$50-00 for a Lead Contractor/Supervisor

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License; and a certificate verifying completion, within one year prior to application for renewal, of a Department-approved one day (8 hour) lead worker or lead contractor/supervisor refresher course. The refresher course content shall be the same as that indicated in subsection (s)††(2) of this Section for a Lead Worker License or subsections (s)††(2) and (3) of this Section for a Lead Contractor/Supervisor License. If a renewal application is received after March 1, the applicant shall pay a nonrefundable late fee of \$15-00, in addition to the license renewal fee. An applicant whose license has been expired for a period of two years or less may apply to the Department for reinstatement of his license. The license shall be reinstated if the applicant submits to the Department a certificate verifying completion of the required type and number of refresher courses for the license category, all lapsed license fees, and a nonrefundable reinstatement fee of \$15-00. A license that has been expired for more than two years is not eligible for renewal. In such instances, the formerly licensed individual desiring to become licensed again shall follow the application procedures specified in subsection (n) †† of this Section.

r)†† Duplicate License. A duplicate license shall be issued to a currently licensed lead worker, contractor/supervisor, or contractor upon submittal of a \$15-00 nonrefundable duplicate license fee.

s)†† Approved Course Content. All lead workers or lead contractor/supervisors shall have taken a Department-approved training course which meets the requirements set out in this subsection and shall have received a certificate of completion upon passing the examination administered at the conclusion of the course. A training course for lead workers and lead contractor/supervisors shall:

- 1) Receive approval from the Department; and
  - 2) Provide at least a minimum three-day course (equivalent to 24 hours) for the instruction of individuals who desire to be licensed as lead workers and a four-day course (equivalent to 32 hours) for individuals who desire to become licensed as lead contractor/supervisors. The three-day course shall be dedicated to the following topics:
    - A) History of Lead;
    - B) Health Effects of Lead Exposure;
    - C) Medical Surveillance of Lead Poisoned Individuals;
    - D) Legal Rights and Responsibilities;
    - E) Personal Protective Equipment;
    - F) Safety Problems;
    - G) Abatement Methods and Work Problems;
    - H) Decontamination;
    - I) Clean-up and Disposal Procedures;
    - J) Lead Monitoring and Tests; and
    - K) Hazard Communication.
- 3) In addition to subsections (s)††(2)(A) through (K) of this Section, a lead contractor/supervisor shall complete a lead



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contractor/supervisor supplemental course, which shall consist of an additional eight hours (one day) of training, and shall pass the examination administered at the conclusion of the course. The supplemental training course for lead contractor/supervisors shall be dedicated to the following topics:

- A) Lead Inspection;
- B) Supervisory Techniques;
- C) Occupational Safety and Health Administration (OSHA) Lead Standard 1910.1025 and 29 CFR 1926.62 (1993);
- D) Department of Housing and Urban Development (HUD) Guidelines-~~Head-Based-Paint~~---~~Interim-Guidelines~~ for the Evaluation and Control of Lead-Based Paint Hazards in Housing (June 1995) ~~for-Hazard-Identification-and-Abatement in--Public--and-Indian-Housing--Revised-Chapters-57-87-97-10 and-11(1994).~~

b) The Department shall prepare and maintain a list of licensed lead abatement contractors.

1) Requirements of License. An applicant for a lead abatement contractor license shall submit the following to the Department:

- A) an application on a form or in a format provided by the Department;
- B) a \$500-~~00~~ nonrefundable licensure fee or, for applications received on or after December 1, a \$250 nonrefundable licensure fee;
- C) a certificate of financial responsibility documenting that the contractor carries liability insurance, self insurance, group insurance, group self insurance, a letter of credit, or a bond in the amount of at least \$250,000 for work performed pursuant to the Lead Poisoning Prevention Act and Lead Poisoning Prevention Code. The contractor shall notify the Department of any changes in the status of the certificate of financial responsibility, including expiration, renewal or alteration of the terms of the certificate. The certificate of financial responsibility shall be an original and shall expressly provide coverage for lead abatement. A photocopy or facsimile copy is not acceptable. The certificate shall be issued by an insurance company that is authorized to transact business in Illinois. A current certificate of insurance shall be on file with the Department at all times;
- D) a copy of a valid Contractor/Supervisor's License issued to either the contractor or the contractor/supervisor employed by the contractor;
- E) a written statement signed by the contractor specifying that only lead workers licensed by the Department will be employed for lead abatement;
- F) a copy of the contractor's written standard operating procedures and employee protection plan, which shall include

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specific references to medical monitoring and respirator training programs required in OSHA regulations at 29 CFR 1910.1001 and 29 CFR 1926.62 (1993);

- G) a description of all legal proceedings, lawsuits or claims which have been filed or levied against the contractor or any of his past or present employees or companies in regard to construction related activities.

2) Reciprocity. An applicant for a contractor's license who is licensed or certified for lead contracting in another state may request reciprocal licensure. The Department shall evaluate the requirements for licensure in such other state and shall issue the license, if the Department determines that the requirements for licensure in such other state are equal to the requirements for licensure in this State. Each applicant for licensure pursuant to this subsection shall submit a one time application fee of \$250-~~00~~ nonrefundable and an additional \$500-~~00~~ nonrefundable license fee if qualified for licensure.

3) Renewal of License. All contractor licenses shall be renewed annually. All licenses shall expire on May 31 of each year. If a renewal application is received after April 30, the applicant shall pay a nonrefundable late fee of \$100-~~00~~, in addition to the \$500-~~00~~ nonrefundable renewal fee. An applicant whose license has expired for a period of three years or less may apply to the Department for reinstatement of the license. The license shall be reinstated if the applicant submits to the Department all lapsed license fees and a reinstatement fee of \$100-~~00~~. A license which has expired for more than three years is not eligible for renewal. In such instances, the formerly licensed individual desiring to be licensed shall follow the application procedures specified in subsection (b)(7)(1) of this Section.

u) Denial of application, and suspension or revocation of license:

- 1) The Director, after notice and opportunity for hearing, may deny the application for, or suspend or revoke the license of, a lead abatement contractor, contractor/supervisor, worker, lead assessor, or inspector in any case in which the Director finds substantial or continued failure to comply with this Part.
- 2) Such notice shall be made by certified mail or by personal service and shall set forth the particular reasons for the proposed action and provide the applicant or licensee with an opportunity to request a hearing. If a written hearing request is not received within 15 days after receipt of the notice by the applicant or licensee, the right to a hearing is waived.

(Source: Amended at 21 Ill. Reg. 7470.3.1.056, effective 7/1/96.)

Section 845.30 Mitigation or Abatement of Lead Hazards



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a) The following procedures shall be followed upon determination by the Department or delegate agency that a lead hazard is present in or upon any dwelling or residential building or child care facility. The Department or delegate agency will provide the occupant of the dwelling with a copy of any mitigation notice, amended notice, mitigation plan, amended plan, or follow-up inspection report issued pursuant to this subsection (a).

1) If the inspection report identifies a lead hazard, the Department or delegate agency shall serve a mitigation notice on the property owner that the owner is required to mitigate the lead hazard. The mitigation notice shall indicate the time period in which the owner must complete the mitigation as required by subsection (a)(3) of this Section, and shall include information describing mitigation activities which meet the requirements of this Part and the Act. (Section 9(1) of the Act)

2) 845.26, identifies a lead hazard, the owner shall mitigate the lead hazard in accordance with the requirements of this Section and within the time limits set forth in subsection (a)(3) of this Section. If the source of the lead hazard identified in the inspection report is lead paint or any other leaded surface coating, the lead hazard shall be deemed to have been mitigated if:

A) The surface identified as the source of the hazard is no longer in a condition that produces a hazardous level of leaded chips, flakes, dust or any other form of leaded substance that can be ingested or inhaled by humans; or

B) If the surface identified as the source of the hazard is accessible to children and could reasonably be chewed on by children, the surface coating is either removed or covered, or the access to the leaded surface by children is otherwise prevented as prescribed by the Department. (Section 9(2) of the Act)

3) When a mitigation notice is issued for a dwelling unit inspected as a result of an elevated blood lead level in a pregnant woman or a child, or if the dwelling unit is occupied by a child under 6 years of age or a pregnant woman, the owner shall mitigate the hazard within 30 days after receiving the notice; otherwise, the owner shall complete the mitigation within 90 days. (Section 9(5) of the Act)

4) An owner may apply to the Department or its delegate agency for an extension of the deadline for mitigation. If the Department or its delegate agency determines that the owner is making substantial progress toward mitigation during the prescribed time period, or that the failure to meet the deadline is the result of a shortage of licensed abatement contractors or workers, or that the failure to meet the deadline is because the owner is awaiting the review and approval of a mitigation plan, the Department or

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delegate agency may grant an extension of the deadline. (Section 9(6) of the Act)

5) The Department or its delegate agency may, after the deadline set for completion of mitigation, conduct a follow-up inspection of any dwelling for which a mitigation notice was issued for the purpose of determining whether the mitigation actions required have been completed and whether the activities have sufficiently mitigated the lead hazard. The Department or its delegate agency may conduct a follow-up inspection upon the request of an owner or resident. If, upon completing the follow-up inspection, the Department or its delegate agency finds that the lead hazard for which the mitigation notice was issued is not mitigated, the Department or its delegate agency shall serve the owner with notice of the deficiency and a mitigation order. The order shall indicate the specific actions the owner must take to comply with the mitigation requirements of this Act, which may include abatement if abatement is the sole means by which the lead hazard can be mitigated. The order shall also include the date by which the mitigation shall be completed. If, upon completing the follow-up inspection, the Department or delegate agency finds that the mitigation requirements of this Act have been satisfied, the Department or delegate agency shall provide the owner with a certificate of compliance stating that the required mitigation has been accomplished. (Section 9(7) of the Act)

b) In order to ensure that lead mitigation or abatement activities do not result in lead contamination of areas outside of the abatement worksite or work area, the removal of lead-bearing substances from the dwelling, residential building, or child care facilities shall be conducted in a manner that will not endanger the health or well-being of occupants and will result in the safe removal from the worksite or work area and the safe disposal of flakes, chips, debris, dust, and other lead-bearing substances. Notwithstanding any provisions to the contrary, performance of mitigation and abatement activities which do not conform to procedures and criteria provided in this Section, whether or not those procedures and criteria are expressly made mandatory in this Section, shall create a rebuttable presumption of creation of a health hazard by the person performing such activities.

c) Mitigation. Mitigation is an interim method of eliminating the lead hazard risk to a child and may consist of any number of the Department-prescribed lead hazard repair activities specified in subsections (c)(1) through (4) of this Section. Such activities may not be considered final actions if it is determined, through a follow-up inspection conducted pursuant to subsection (a)(5) of this Section, that the lead hazard repair measures taken have not sufficiently mitigated the lead hazard. Lead hazard repairs shall be completed within the time specified after receipt of written notification. When conducting any lead hazard repair that does not create lead dust or fumes as specified in subsections (c)(1) through

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(4), the requirements of Section 845.28 pertaining to the licensure of lead workers, lead contractor/supervisors, or lead abatement contractors and the requirements of subsections (d)(1)(B) through (E) and (d)(2) of this Section are optional.

1) All loose paint shall be moistened and carefully scraped from defective surfaces. These areas shall then be covered with contact paper, cloth, canvas, or other material which will create an intact surface for the purpose of preventing the paint chips from falling on the floor and preventing a child's access to the lead hazard. All debris shall be collected and sealed in plastic bags for proper disposal in accordance with subsection (q) of this Section.

2) Areas which may be chewed upon by a child shall be covered with heavy paper, cardboard, cloth, canvas, or other material that will prevent access to the lead hazard by a child.

3) All plaster and paint chips shall be collected, and any surfaces that have collected paint dust shall be cleaned by damp mopping with a phosphate-containing detergent or trisodium phosphate (TSP), or a phosphate-free lead-dissolving detergent.

4) A mitigation plan shall be submitted by the owner or its agent to the Department or delegate agency specifying the method or methods by which surfaces which will be managed-in-place are to be maintained in an intact condition. The plan shall include an inspection schedule, which shall include inspection by the owner or its agent at least annually, and a maintenance schedule. Any surfaces that are not intact, as determined through an inspection, shall be repaired using the mitigation techniques specified in subsections (c)(1), (2), and (3) of this Section.

d) Abatement. For cases in which a follow-up inspection conducted pursuant to subsection (a)(5) of this Section determines that lead hazard repair measures taken have not sufficiently mitigated the lead hazard, abatement may be deemed necessary. If the Department or delegate agency determines that abatement is the sole means by which a lead hazard can be mitigated, then abatement activities shall be conducted in accordance with this Section. *Mitigation activities which involve the destruction or disturbance of any lead surface shall be conducted by a licensed lead abatement contractor using licensed lead abatement workers* (Section 9 of the Act). If the mitigation activities described in subsection (c) of this Section will not result in protection of a child, or are not practical, any child or children shall be removed to a lead-safe dwelling until abatement is completed.

1) Personnel Protection. An owner, its agent, or any person who is performing corrective action that is prescribed by the Department or a delegate agency for lead abatement in a dwelling, shall take the following precautions to protect his or her health and the health of occupants of the dwelling during any lead abatement that may produce lead dust or fumes. Monitoring of airborne dust shall be performed when work is in progress and respiratory

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protection shall be provided in accordance with this Section. The owner or its agent shall assure, through the monitoring of airborne dust in the work site and in areas that are outside but adjacent to the work site, that no person conducting lead abatement work directed by the Department or owner is exposed to lead at concentrations greater than the permissible exposure limit average (50 mcg/m(3)) over an eight-hour period.

A) No children, pregnant women, unprotected workers, nonworkers, or pets shall be permitted to enter the work site.

B) Respiratory protection shall be worn by all individuals in the work site or work area who may be exposed to lead dust or fumes at all times during lead abatement activities. Respiratory protection in accordance with OSHA Interim Final Rule for Lead in Construction - 29 CFR 1926.62, shall be worn until all areas have been thoroughly cleaned as described in subsection (o) of this Section. The following are the minimum respiratory protection requirements:

i) Air lead levels of 500ug/m(3) or less: Half-mask air purifying (protection 10X) respirator with high efficiency filters; or half-mask supplied air respirator operated in demand (negative-pressure) mode.

ii) Air lead levels between 500ug/m(3) and 1,250ug/m(3): Loose fitting hood or helmet (protection 25X) powered air purifying respirator with high efficiency filters; or hood or helmet supplied air respirator operated in continuous-flow mode (e.g., type CE abrasive blasting respirators operated in a continuous flow mode).

iii) Air lead levels between 1250ug/m(3) and 2500ug/m(3): Full facepiece air purifying (protection 50X) respirator with high efficiency filters; tight fitting powered air purifying respirator with high efficiency filters; full facepiece supplied air respirator operated in demand mode; half-mask or full facepiece supplied air respirator operated in a continuous-flow mode; or full facepiece self-contained breathing apparatus (SCBA) operated in demand mode.

iv) Air lead levels between 2500ug/m(3) and 50,000ug/m(3): Half-mask supplied air (protection 1,000X) respirator operated in pressure-demand or other positive pressure mode.

v) Air lead levels between 50,000ug/m(3) and 100,000ug/m(3): Full facepiece supplied air (protection 2,000X) respirator operated in pressure demand or other positive pressure mode (e.g., type CE abrasive blasting respirators operated in a positive pressure mode).

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vi) Greater than 100,000ug/m(3): Full facepiece SCBA operated unknown concentration, in pressure-demand or other or fire fighting positive pressure mode (protection over 2000X).

C) Only approved Mine Safety and Health Administration (MSHA) or National Institute of Occupational Safety and Health (NIOSH) respirators shall be used. Respirators shall be properly fitted for all persons working at the site. If any person has a medical history of respiratory problems, a physician should be contacted for testing to determine if the person may wear such respirators.

D) The manufacturers' instructions shall be followed for maintenance, proper fit, use of appropriate cartridges, cleaning, repair, replacement of defective parts, appropriate storage, and the frequency of cartridge replacement for the specific respirator in use.

(NOTE: Respirators are not effective if facial hair (a beard, etc.) is present because a good seal cannot form between the respirator and skin.)

E) Respirators shall not be removed while in the work site or work area.

F) Additional respiratory protection by supplemental filters, such as organic vapor cartridges, may be needed when handling some coating or stripping products. Consult the Material Safety Data Sheets (MSDS) or the manufacturer and obtain the proper filters as necessary.

2) Individuals at the work site shall wear full body suits with hoods and shoe covers. A TYVEK or similar type of disposable suit may be worn. Disposable suits shall be used once, then properly discarded. Protective clothing, as described above, and other personal protective equipment (PPE) shall be put on prior to entering the work site or work area. Protective clothing shall be worn in the work site or work area until it has been thoroughly cleaned as described in clean-up activities in subsection (c) below. Protective clothing shall be changed before leaving the work site or work area and nondisposable suits shall be laundered separately. An area other than the work site or work area shall be provided for persons to put on suits and other PPE and to store their street clothes.

3) Goggles with side shields shall be worn when working with a material that may splash or fragment, or if protective eye wear is specified on the Material Safety Data Sheet (MSDS) for that product.

e) Notice to Occupants. The owner or its agent shall give notice to the occupants of a dwelling to be abated for lead, at least 7 days but not more than 30 days, before a contractor or the owner may commence a lead abatement project. Before beginning a lead abatement project, the owner of the building in which lead abatement is to take place shall

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remove all furniture and packed personal items from the work site and store them in a secure place. The owner of the building in which the lead abatement project is to take place shall notify all residents of:

- 1) the site or area which is to be abated;
- 2) the date on which abatement is to commence; and
- 3) the occupants' obligations under this Section to place all personal items in a box or other closed, easily handled container. Every occupant of a dwelling to be abated, who has received a notice of lead abatement, shall be responsible for placing all personal items in boxes or other closed, easily handled containers.

f) Residential Buildings. At all times when a lead abatement project is being conducted in a common area of a residential building:

- 1) occupants and pets shall use alternative entrances and exits which do not require passage through the work site or work area, if such entrances and exits exist;

2) the owner or its agent shall use all reasonable efforts to create an uncontaminated passage for entrance and egress of all building occupants; and

3) if the entrance to and egress from a building can only be through the work site or work area, abatement in the work site or work area shall be conducted between the hours of 9 a.m. to 3 p.m. only, and the work site or work area shall be cleaned with a HEPA vacuum at the end of each working day until all surfaces are free of visible dust and debris.

g) Abatement of lead-bearing substances shall not employ the following methods:

- 1) open flame burning;
- 2) dry-sanding;
- 3) open abrasive blasting;
- 4) uncontaminated hydro-blasting;
- 5) methylene chloride for interior use (except that methylene chloride may be used in work sites for localized touch-up); or
- 6) dry-scraping.

h) Abatement of lead-bearing substances shall employ only the following methods:

- 1) Replacement. Any component part of a building may be abated by replacement with a part free of lead-bearing substances.

2) Removal. Unless replaced, encapsulated, or reversed, woodwork may be abated by using the following techniques:

- A) offsite chemical stripping;
- B) heat gun (The temperature of the heat gun shall not exceed 1,100° F.);
- C) nonflammable chemical strippers which do not contain methylene chloride, except that chemical strippers containing methylene chloride may be used for localized touch-up;
- D) sander equipped with HEPA vacuum;



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- E) vacuum-blasting in exterior work areas only;  
 F) contained hydro-blasting in exterior work areas only; or  
 G) mechanical paint removal systems equipped with a HEPA vacuum.
- 3) Unless replaced or encapsulated, walls or ceilings may be abated by using the following techniques:  
 A) wet-scraping of loose material, if scraping is followed by encapsulation;  
 B) vacuum-blasting in exterior work areas only; or  
 C) contained hydro-blasting in exterior work areas only.
- 4) Enclosure. A wall or ceiling surface may be abated by covering the lead-bearing surface with any of the following materials, provided use of any material complies with local building ordinances or codes. (All seams and openings shall be caulked and sealed where applicable.):  
 A) gypsum board;  
 B) fiberglass mats;  
 C) canvas-backed vinyl wall coverings;  
 D) high pressure, laminated plastic sheet, such as Formica (R);  
 E) tile;  
 F) paneling;  
 G) other durable material that does not readily tear or peel; or
- H) ~~Department-approved solvent-free coatings (not household paint) applied in accordance with the manufacturer's directions. The Department shall provide a list of approved coatings-upon-request.~~
- 5) A floor surface may be abated by enclosure using the following materials:  
 A) tile;  
 B) vinyl flooring;  
 C) wood; or  
 D) stone.
- 6) A woodwork surface may be abated by enclosure or encapsulation only with the following materials:  
 A) plastic;  
 B) metal;  
 C) wood; or  
 D) ~~Department-approved solvent-free coatings (not household paint) applied in accordance with the manufacturer's directions. The Department shall provide a list of approved coatings-upon-request.~~
- 7) Reversal. A woodwork surface may be abated by reversing component parts, provided that no lead-bearing surface remains exposed at the completion of the process and all seams are caulked and sealed.
- 8) Windows, when abated, shall be completely treated, including inside, outside, and sides of sashes and mullions. Window frames

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shall be abated to the outside edge of the frame, including slides, sash guides, and window wells and sills.

- i) Alternative Procedures  
 1) The Department or delegate agency may allow an alternative procedure for abatement, containment or cleanup of a lead paint hazard, provided that the owner submits to the Department or delegate agency a written description of the alternative procedure that demonstrates to the satisfaction of the Department that the proposed alternative procedure provides a level of abatement and safety equivalent to the requirements of this Section. The delegate agency shall send a copy of the request and the delegate agency's response to the Department for its records.
- 2) In all cases in which the Department or delegate agency allows the use of an alternative procedure under subsection (i)(1) above, the owner and occupant shall, for a one-year period after completion of the lead abatement project, permit the Department or delegate agency to enter and inspect the area of abatement for the purpose of determining the effectiveness and durability of the allowed alternative procedure.
- j) Caution Signs. At each work site or work area in dwellings occupied by two or more families, the owner or its agent performing an abatement shall display a caution sign in the following manner wherever the abatement process is reasonably expected to break or disturb any lead-bearing substances.  
 1) At least 3 days before removing, enclosing, or encapsulating lead paint, the owner shall post caution signs immediately outside all entrances and exits to the work site. In emergency situations posting shall be done as soon as possible.  
 2) The owner shall keep the caution signs posted until the lead abatement is completed.  
 3) The owner shall ensure that caution signs meet the following specifications:  
 A) the sign shall be at least 20" by 14", and state the date and place of the lead abatement project;  
 B) except as provided in subsection (j)(3)(C) below, the sign shall include the phrase "Caution, Lead Hazard, Keep Out" or "Warning, Lead Work Area, Keep Out" in bold lettering, at least two inches high; and  
 C) in dwellings occupied by two or more households where common areas are to be abated, the sign shall include the phrase "Caution, Lead Hazard, Do Not Remain in Work Area Unless Authorized" in bold lettering at least two inches high.
- k) Residential Buildings  
 1) In residential buildings where common areas are to be abated, the owner or its agent shall post a notice on the door of each apartment in the building at least three days before a lead abatement project commences.

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- 2) The notice required in subsection (k)(1) above shall contain:
  - A) the date of commencement of abatement and identification of the area to be abated; and
  - B) a caution statement alerting residents not to enter the work site or work area.
- 1) Personal Hygiene Practices
  - 1) Eating, drinking, smoking, and applying of cosmetics are not allowed in the work site or work area. Any person leaving the work site or work area shall rinse his or her mouth with potable water and wash hands and face thoroughly before eating, drinking or smoking.
  - 2) All individuals shall wash or shower before leaving the work site or work area for the day.
  - 3) A lavatory facility or potable water supply or a portable decontamination unit shall be provided and located at the work site or work area for the washing of hands and face and for clean up activities.
- m) Negative air pressure shall be maintained in work sites undergoing lead abatement in multiple dwelling units occupied by two or more households having a common area and in residential buildings having a common area, in which any unit of the building is undergoing lead abatement. The maintenance of negative air pressure will ensure that contaminated air does not filter from the work site to uncontaminated areas. (See Appendix D of this Part)
  - 1) The negative pressure system shall use HEPA filters and shall operate continuously, 24 hours a day, at the start of the lead abatement work through clean-up as described in Section 845.30(o).
  - 2) The owner or its agent shall assure, through the monitoring of airborne dust, that no person conducting lead abatement work directed by the Department is exposed to lead at concentrations greater than 50 mcg/m(3) average over an eight-hour period.
- n) Containment
  - 1) Interior Containment. Before beginning to abate a lead-containing substance which will cause lead dust or fumes in excess of the requirements in subsection (c) above in the work site, the owner or its agent performing an abatement shall:
    - A) ensure that all movable objects have been removed from the work site;
    - B) turn off all forced air ventilation in the work site and seal exhaust and intake points in the work site;
    - C) if the work site is a room or group of rooms within a building, seal the work site from all other portions of the building with plastic sheeting at least 6 mils thick, secured by duct tape or spray adhesives;
    - D) seal the opening seams of all kitchen cabinets and refrigerators individually with tape;
    - E) cover all objects that cannot be moved, such as radiators,

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- refrigerators, stoves, kitchen cabinets, built-in furniture, and bookcases, with plastic sheeting at least 6 mils thick taped securely in place;
- F) cover floors in the work site with plastic sheeting at least 6 mils thick sealed with tape; and
- G) remove all carpeting from the work site prior to abatement. Carpeting shall be professionally cleaned or replaced. Carpeting shall be misted with water prior to removal to prevent lead dust exposure.
- 2) Exterior Containment. Before beginning to abate a lead-containing substance in an exterior work site, the owner or its agent performing the abatement shall use the following procedures:
  - A) When liquid waste is produced by any abatement technique used, plastic sheeting at least 6 mils thick shall be placed on the ground, as close as possible to the building foundation, or on the floor when applicable. Sheetting placed on the ground or floor shall be raised at its edge and extended a sufficient distance to contain the liquid waste.
  - B) When nonliquid waste is produced by any abatement technique used, plastic sheeting at least 6 mils thick shall be placed on the ground, as close as possible to the building foundation, or on the floor when applicable. Sheetting placed on the ground or floor shall extend out from the foundation 3 feet per story being abated, with a minimum of 5 feet and a maximum of 20 feet.
  - C) Sheetting placed on an exterior floor shall cover the entire floor.
  - D) Sheetting shall be secured at the foundations and along all edges and seams.
  - E) If the wind speed causes visible dust during an exterior abatement project producing dry waste, abatement shall not be continued or performed unless vertical shrouds are erected.
  - F) When vacuum blasting or contained hydro-blasting, interior windows shall be sealed with plastic sheeting 6 mils thick and secured with water proof tape.
- 3) For all sealing and covering of interior and exterior abatement work the owner or its agent shall use the following:
  - A) plastic sheeting, at least 6 mils thick or equivalent;
  - B) duct tape or equivalent waterproof tape;
  - C) spray adhesives; or
  - D) other additional appropriate work practices to contain particulate lead or lead-containing liquids.
- 4) Alternative Procedures
  - A) The Department or delegate agency may allow an alternative procedure for abatement, containment or cleanup of a lead

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paint hazard, provided that the owner submits to the Department or delegate agency a written description of the alternative procedures that demonstrates to the satisfaction of the Department that the proposed alternative procedure provides a level of abatement and safety equivalent to the requirements of this Section. The delegate agency shall send a copy of the request and the delegate agency's response to the Department for its records.

- B) In all cases in which the Department or delegate agency allows the use of an alternative procedure under subsection (n)(4)(A) above, the owner and occupant shall, for a one-year period after completion of the lead abatement project, permit the Department or delegate agency to enter and inspect the area of abatement for the purpose of determining the effectiveness and durability of the allowed alternative procedure.

- o) Cleanup of Interior Work Site. Refer to Appendix D of this Part if a negative pressure system is used. After completion of the removal, replacement, enclosure, encapsulation, or reversal involved in an abatement project, the owner or its agent shall:

- 1) deposit all lead waste, including sealing tape and plastic sheeting, in double plastic bags at least 4 mils thick or single bags 6 mils thick or equivalent, and seal the bags;
- 2) before washing, vacuum-clean all surfaces in the work site including woodwork, walls, windows, window wells, and floors with a HEPA vacuum;
- 3) after vacuum-cleaning, wet wash all surfaces in the work site including woodwork, walls, windows, window wells, ceilings and floors with a solution containing trisodium phosphate mixed according to the manufacturer's directions, or a phosphate-free lead dissolving detergent; and
- 4) if visible residue remains after washing and allowing all surfaces to dry, vacuum all surfaces with HEPA vacuum, as described in subsection (o)(2) above; and
- 5) deposit all lead waste from clean-up, including mop heads, sponges, filters, and disposable clothing, in double plastic bags at least 4 mils thick or single bags 6 mils thick, and seal the bags.

- p) Cleanup of Exterior Work Area. After completion of the replacement, removal, encapsulation, enclosure, or reversal involved in an exterior abatement or mitigation project, the owner or its agent shall:

- 1) recover all visible debris from exterior areas;
- 2) HEPA vacuum all porches that have been abated; and
- 3) wet wash all surfaces in the work site, including woodwork, windows, window wells, and floors, with a solution containing trisodium phosphate mixed according to the manufacturer's directions, or a phosphate-free lead dissolving detergent.

- q) Waste Disposal

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- 1) The owner or its agent of any dwelling who has conducted lead abatement that was prescribed by the Department or delegate agency shall contact the Illinois Environmental Protection Agency and local authorities to determine lead-based paint debris disposal requirements.
- 2) In addition, the owner or its agent shall:
  - A) remove lead waste from the site of an abatement project not later than 48 hours after completing the final cleanup;
  - B) place lead-based paint chips, debris, and lead dust in double 4-mil or single 6-mil polyethylene bags, or equivalent, that are air-tight and puncture-resistant. Pieces of wood or other large items that do not fit into plastic bags shall be wrapped with double 4-mil or single 6-mil plastic sheeting and sealed;
  - C) place all disposable cleaning materials, such as sponges, mop heads, filters, disposable clothing, and brooms in double 4-mil or single 6-mil plastic bags, or equivalent, and seal;
  - D) remove plastic sheeting and tape from covered surfaces. Prior to removing the plastic sheeting, the sheeting shall be lightly misted in order to keep dust down and folded inward to form tight small bundles to bag for disposal. All plastic sheeting shall be placed in double 4-mil or single 6-mil thick plastic bags, or equivalent, and shall be sealed;
  - E) bag and seal vacuum cleaner bags and filters in double 4-mil or single 6-mil thick plastic bags or equivalent;
  - F) place all contaminated clothing or clothing covers used during abatement and cleanup in plastic bags for disposal prior to leaving equipment room, work site or work area;
  - G) place solvent residues and residues from strippers in drums made from materials that cannot be dissolved or corroded by chemicals contained in those solvents and strippers. Solvents shall be tested to determine if they are hazardous. Solvents and caustic and acid waste shall not be stored in the same containers;
  - H) contain and properly dispose of all liquid waste, including lead dust contaminated wash water;
  - I) HEPA vacuum the exterior of all waste containers prior to removing the waste containers from the work site or area and wet wipe the containers to ensure that there is no residual contamination. Containers that have been cleaned shall be moved out of the work site or area into a designated storage area;
  - J) carefully place the containers into the truck or dumpster used for disposal; and
  - K) ensure that all waste is transported in covered vehicles to a landfill approved by the Illinois Environmental Protection



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## Agency.

r) Repainting, Coating and Sealing. After cleaning, the owner or its agent shall repaint all abated surfaces with a paint that is not a lead-bearing substance or coat all surfaces from which lead paint has been removed with a Department-approved, solvent-free coating, except for those enclosed surfaces that have smooth, easily cleanable surfaces.

1) After painting or coating, the owner or its agent shall repeat the cleaning process in all interior work areas, except those painted with latex paint or coated with liquid encapsulant.

2) After completion of the cleaning, the owner or its agent shall seal all floors that have been abated in the work site with:

- A) polyurethane;
- B) gloss deck enamel;
- C) a tight fitting vinyl floor covering; or
- D) an equivalent impermeable material, if a smooth cleanable surface is not already present.

## 3) Alternative Procedures

A) The Department or delegate agency may allow an alternative procedure for abatement, containment or cleanup of a lead paint hazard, provided that the owner submits to the Department or delegate agency a written description of the alternative procedure that demonstrates to the satisfaction of the Department that the proposed alternative procedure provides a level of abatement and safety equivalent to the requirements of this Section. The delegate agency shall send a copy of the request and the delegate agency's response to the Department for its records.

B) In all cases in which the Department or delegate agency allows the use of an alternative procedure under subsection (q)(3)(A) above, the owner and occupant shall, for a one-year period after completion of the lead abatement project, permit the Department or delegate agency to enter and inspect the area of abatement for the purpose of determining the effectiveness and durability of the allowed alternative procedure.

## s) Procedures for Determining Compliance

1) The Department or delegate agency may inspect a work site or work area at any time during a lead abatement project to determine compliance with this Section.

A) The inspector shall notify the owner of the results of the inspection, and shall include the locations and characteristics of surfaces with inadequate treatment.

B) A lead abatement project shall be deemed to be in compliance with these regulations if:

- i) Lead dust levels on horizontal interior surfaces are below 200 micrograms per square foot; and
- ii) All abated surfaces and all floors have been treated

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to provide smooth and easily cleanable surfaces. 7-or  
 iii) Chemical spot-tests that are performed in accordance with Department approved protocols result in lead levels that do not exceed the permissible limits of lead specified in Section 845-50.

2) Noncompliance. If the results of a lead dust analysis conducted do not meet the requirements of subsections (s)(1)(B)(i) or (ii) and (iii) above, the owner or its agent shall perform a further cleanup as described in subsection (o). If results of the lead dust analysis meet the requirements of subsection (s)(1)(B)(i) or (ii) and (iii) above, the Department or delegate agency shall state that the lead abatement project has been completed and complies with the Department's requirements. A statement of completion and compliance may not preclude the Department or delegate agency from taking any future enforcement action against the owner of the dwelling.

t) Records. The Department or delegate agency shall retain for 6 years the following information for every lead abatement project prescribed by the Department or delegate agency:

- 1) name and address of the contractor who performed the project and the owner;
- 2) the location of the project;
- 3) a summary of abatement techniques used to comply with Department or delegate agency prescribed corrective action;
- 4) the location of the disposal site of the discarded lead-based substances which were removed by a contractor from the work site; and
- 5) the starting and completion dates of the lead abatement project.

(Source: Amended at 21 Ill. Reg. 7483, effective MAY 31 1997)

## Section 845.50 Permissible Limits of Lead in and about Dwellings, Residential Buildings or Child Care Facilities

a) The permissible limit of lead in any lead bearing substance applied to an exterior surface of a dwelling, residential building or child care facility which is accessible to children shall be five-tenths of one percent (0.5%) lead by weight (calculated as lead metal) in the total non-volatile content of liquid paint, or lead bearing substance containing greater than one milligram per square centimeter in the dried film of paint.

b) The permissible limit of lead in soil which is readily accessible to children shall be 1,000 micrograms of lead per gram of soil (mcg/g).

c) The permissible limit of lead in house dust shall be the same as that in Section 845.30(s)(1)(B)(i) or (ii) or (iii).

d) The storage of any lead-containing or lead-contaminated article including automotive or marine batteries, battery casings or battery

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casing liners; scrap lead or lead solder; internal combustion engine parts; print or print faces; pottery glaze or pottery glaze containers; bullets or spent cartridges; or any other article containing or contaminated by lead in an area accessible to children shall be prohibited.

(Source: Amended at 21 Ill. Reg. 21 A 2, effective MAY 1, 1991)

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## Section 845.APPENDIX A Instructions for Childhood Blood Lead Poisoning Reporting System

## Section 845.EXHIBIT A Instructions for Completing the Laboratory Based Report of Childhood Lead Poisoning

The Childhood Lead Poisoning Report form should be completed for all confirmed blood lead test results tests-ef--10--micrograms-per--deciliter--(mcg/dl)--or greater on all persons 15 years of age and younger. Each laboratory At laboratories in Illinois certified by the Illinois Department of Public Health to conduct a blood lead analysis is are required to complete the Childhood Lead Poisoning Report form, unless the laboratory is reporting to the Illinois Department of Public Health using the electronic reporting system.

## CHILD DATA

1. Complete the following information on the child's complete name:

• LAST NAME: Enter the child's complete last name.

• FIRST NAME: Enter the child's complete first name.

• MIDDLE INITIAL: Enter the child's middle initial.

2. Complete the following information on the child's parent or guardian, if available:

• LAST NAME: Enter the parent/guardian's complete last name.

• FIRST NAME: Enter the parent/guardian's complete first name.

• MAIDEN NAME: Enter the parent/guardian's complete last maiden name.

3. TELEPHONE NUMBER: If available, enter the child's telephone number (area code and seven-digit number).4. DATE OF BIRTH: Enter the child's date of birth. Use two digits for the month, date and year.5. ADDRESS OF CHILD: Complete the following elements on the form. All elements refer to the current address for the child.

• NUMBER: Enter the number of child's current street address.

• DIRECTION: Enter the direction which appears in the child's current street address, e.g., North, West.

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- 1. STREET NAME: Enter the name of the child's current street address.
- 2. TYPE: Enter the applicable type of street address, e.g., avenue, street, boulevard.
- 3. APARTMENT NUMBER: If applicable, enter the apartment number of the child's address.
- 4. COUNTY: Enter the complete name of the county where the child currently is residing.
- 5. CITY: Enter the complete name of the city in which the child currently is residing.
- 6. STATE: Enter the state where the child currently is residing. Use the standard two-character abbreviation.
- 7. ZIP: Enter the five-digit zip-code where the child currently is residing.
- 8. SEX: Check the appropriate box to indicate the child's sex.
- 9. RACE: Check the appropriate box to indicate the child's race.
- 10. HISPANIC: Check the appropriate box to indicate whether the child is Hispanic.

TEST DATA

- 9. DATE OF FIRST TEST: Enter the month, day, and year the first blood lead sample to be reported was collected. Use two digits for month, day, and year, e.g., 06/01/92.
- 10. TYPE: Check the appropriate box to indicate the specimen type (venous or fingerstick).
- 11. TEST RESULTS: Enter the blood level of the sample in micrograms per deciliter (mcg/dL).
- 12. DATE OF SECOND TEST: Enter the month, day, and year the second blood lead sample to be reported was collected. Use two digits for month, day, and year, e.g., 06/01/92.
- 13. TYPE: Check the appropriate box to indicate the specimen type.
- 14. TEST RESULTS: Enter the blood lead level of the sample in micrograms per deciliter (mcg/dL).

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- 15. NAME OF LABORATORY: Enter the name of the laboratory analyzing the blood lead sample or the laboratory code number.
- 16. LABORATORY TELEPHONE NUMBER: Enter the telephone number of the laboratory which analyzed the blood lead sample.
- 17. NAME: Enter the name of the physician, hospital staff member, laboratory technician, clinic employee, or other person submitting the report of the blood lead result.
- 18. TELEPHONE NUMBER: Enter the telephone number of the submitting party (area code and seven-digit number).
- 19. CLINIC/HOSPITAL: Enter name of clinic or hospital.
- 20. ADDRESS: Enter the address of the industry, physician, hospital, laboratory, clinic, or other entity/facility submitting the report of the blood lead test. The street number, direction, street name, suite, city, state, zip code, and county should be included.

COMPLETION DATA

- 21. On the line provided on the form, the usual signature of the person (first and last name) completing the form should be affixed. Enter the title of the person completing the form.
  - 22. DATE OF REPORT: Enter the month, day, and year the form is completed. Use two digits for month, day, and year, e.g., 06/01/92.
- All elevated blood lead levels of 45 mcg/dL shall be reported by telephone within 24 hours to the Childhood Lead Poisoning Prevention Program at 217/785-9464 or 217/782-0403.

Mail completed report within 48 hours to:

Illinois Department of Public Health  
Division of Family Health  
Childhood Blood Lead Level Reporting System  
535 West Jefferson Street  
Springfield, IL 62761

- 1- PHB-1551N015-DEPARTMENT-OF-PUBLIC-HEALTH-CASE--NUMBER--The--case--number will--be--completed--by--the--Illinois--Department--of--Public--Health;
- 2- DATE--OF--REPORT--Enter--the--month--day--and--year--the--form--is--being completed--Use--two--digits--e.g., 06/01/92.

CASE-DATA



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- 3: Complete the following information on the case's complete name:  
 : LAST-NAME:--Enter the case's complete last name.  
 : FIRST-NAME:--Enter the case's complete first name.  
 : MIDDLE-INITIAL:--Enter the case's middle initial.  
 : MAFBEN-NAME:--If applicable, enter the case's maiden name or the case's mother's maiden name.
- 4: ADDRESS--OP--CASE:--Complete the following elements on the form--All elements refer to the current address for the case.  
 : NUMBER:--Enter the number of case's current street address.  
 : DIRECTION:--Enter the direction which appears in the case's current street address--e.g. North, West.  
 : STREET-ADDRESS:--Enter the name of the case's current street address.  
 : APARTMENT--NUMBER:--If applicable, enter the apartment number of the case's address.  
 : TYPE:--Enter the applicable type of street address--e.g. avenue, street, boulevard.  
 : CITY:--Enter the complete name of the city in which the case currently is residing.  
 : STATE:--Enter the state where the case currently is residing--Use the standard two digit abbreviations.  
 : ZIP--CODE:--Enter the five digit zip code where the case currently is residing.
- 5: COUNTY:--Enter the complete name of the county where the case currently is residing.  
 : CODE:--Enter the County Code provided by the Illinois Department of Public Health.
- 6: TELEPHONE-NUMBER:--If available, enter the case's telephone number--(area code--and--seven--digit--number)--if unknown, enter slashes in boxes provided.
- 7: DATE-OF-BIRTH:--Enter the date of birth for the case--Use two digits for the month, date and year.
- 8: SEX:--If available, enter the appropriate number for the sex of case--in the box provided--Record 1 for a male, 2 for a female and a 9 for unknown.
- SUBMITTING-PARTY-DATA
- 9: NAME:--Enter the name of the person--industry--physician--hospital--laboratory--clinic--or other submitting the report of the elevated blood lead.
- TYPE:--Enter the title, if applicable, of person submitting the elevated blood lead sample to be analyzed.  
 : TELEPHONE-NUMBER:--Enter the telephone number of the submitting party (area code and seven digit number).
- 11: TYPE:--Enter the type of party submitting the sample in the box provided--if a physician submits the elevated blood lead sample, indicate by marking 1 in box 1--for a hospital--mark 2 in box 2--for a laboratory (private or public)--mark 3 in box 3--for a clinic--mark 4 in box 4--for other

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- e.g. nurse, other health care professional, mark 5 in box 5 and specify on the line provided.
- TESTING-PARTY-DATA
- 12: NAME-OF-LABORATORY:--Enter the name of the laboratory analyzing the blood lead sample--the laboratory code number will be completed by the Illinois Department of Public Health.
- 13: ADDRESS:--Enter the address of the laboratory analyzing the blood lead sample including street number, direction and name.  
 : CITY:--Enter the complete name of the city of the laboratory analyzing the blood lead sample.  
 : STATE:--Enter the two digit abbreviation of the state of the laboratory analyzing the blood lead sample.  
 : ZIP--CODE:--Enter the five digit zip code of the laboratory analyzing the blood lead sample.
- 14: LABORATORY-TELEPHONE-NUMBER:--Enter the telephone number of the laboratory analyzing the blood lead sample.
- 15: TEST-RESULTS:--Enter the blood lead level of the sample in micrograms per deciliter (mcg/dl).
- 16: DATE-SAMPLE-COLLECTED:--Enter the month, day and year the blood lead sample was collected--e.g. 06/01/92--Use two digits for month, day and year.
- 17: DATE-SAMPLE-ANALYZED:--Enter the month, day and year the blood lead sample was analyzed by the laboratory--e.g. 06/01/92--Use two digits for month, day and year.
- 18: SPECIMEN-TYPE:--Enter a 1 in the box provided if the specimen type is venous, and a 2 if capillary and a 9 if unknown.
- On the line provided on the form, the usual signature of the person (first and last name) completing the form should be affixed--Enter the title of the person completing the form--Enter the date the completed form is mailed.
- All elevated blood lead levels of 45 mcg/dl or shall be reported by telephone within 24 hours to the Child Health--Poisoning--Prevention--Program (217) 782-0403.
- Mail completed report within 48 hours to:  
 Illinois Department of Public Health  
 Division of Family Health  
 Childhood Blood Lead Level Reporting System  
 535 West Jefferson Street  
 Springfield, IL 62761

(Source: Amended at 21 Ill. Reg. 7490, effective MAY 31 1997)

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Section 845, EXHIBIT B Instructions for Submitting the Medical Follow-Up Data for Children With of Childhood Blood Lead Levels  $\geq$  of 15 mcg/dL meg/dl--and Above

Medical follow-up should be completed by delegate agencies for all persons 15 years of age and younger having had a blood lead test analyzed and confirmed at 15 mcg/dL meg/dl or higher. All medical and environmental follow-up data must be entered into a STELLAR database maintained by the delegate agency. A STELLAR report and any additional reports requested by the Illinois Department of Public Health should be run regularly, at intervals determined by the Department. Detailed instructions on the STELLAR procedures are available from the Department upon request.

## CASE-DATA

- 1+ NAME
  - LAST-NAME:--Provide-the-complete-last-name-of-the-case-
  - FIRST-NAME:--Provide-the-complete-first-name-of-the-case-
  - MIDDLE-INITIAL:--Provide-the-middle-initial-of-the-case-
  - MAIDEN-NAME:--Provide-the-case's-mother's-maiden-name-
- 2+ ADDRESS
  - NUMBER:--Provide-the-number-of-case's-current-street-address-
  - STREET-NAME:--Provide-the-name-of-the-case's-current-street-address-
  - APARTMENT-NUMBER:--If-applicable, provide-the-apartment-number-of-the-case's-current-address-
  - CITY:--Provide-the-complete-name-of-the-city-where-the-case-currently-is-residing-
  - STATE:--Provide-the-two-digit-state--abbreviation--where--the--case-currently-is-residing-
  - ZIP-CODE:--Provide-the-five-digit-zip-code-where-the-case-currently-is-residing-
  - COUNTY-NAME:--Provide-the-name-of-the-county-where-the-case-currently-is-residing-
- 3+ PARENT/GUARDIAN'S-NAME:--Provide-the-last-and-first-name--of--the--case's parent-or-guardian-
- 4+ PHONE-NUMBER:--Provide-the-parent/guardian's-telephone-number-(area-code and-seven-digit-number)-
- 5+ MEDICAID-NUMBER:--Provide--the--case's--Medicaid-recipient--nine--digit identification number-
- 6+ DATE-OF-BIRTH:--Provide-the-case's-monthly-day-and-year--of--birth--e-g-7 00/00/00:--Use-2-digits-for-the-monthly-date-and-year-
- 7+ SEX:--Provide--the--case's--sex:--Indicate-1-if-male-2-if-female-9-if unknown-

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- 0+ RACE:--Provide-the-case's-race:--Indicate-1-if-White-2-if-Black-3-if-Asian/Pacific-Islander-4-if-Native-American-or-5-if-Other-Black-is-defined-as-a-person-having-origins-in-any-of-the-black-racial groups:-Asian-or-Pacific-Islander-is-defined-as-a-person-having-origins-in-any-of the-original-peoples-of--the--Par--East--Southeast-Asia--the--Indian subcontinent--or--the-Pacific-Islands-e-g-7-China-7-Korea-7-the-Philippine Islands-or-Samoa-Native-American-is-defined-as-a-person-having-origins--in--any--of--the original--peoples--of--North--America--and--who--maintains--culture identification-through-tribal-affiliation-or-community-organization-White-is-defined-as-a-person-who-is-considered-to-be-Caucasian-
- 9+ ETHNIC-GROUP:--Hispanic-is-not-considered-a-race-but-it-is-considered-an ethnicity:--Indicate-the-appropriate-number-identifying-whether-or-not case-is-Hispanic:--Indicate-1-for-yes-2-for-no-7-and-9-for-unknown-
- 10+ NUMBER--OP--CHILDREN-UNDER-6-YEARS-OF-AGE-LIVING-IN-THE-CASE'S HOUSEHOLD:--Indicate-the-appropriate-number-of-children-living-in--the case's-household-
- 11+ DATE-OP-INITIAL-MEDICAL-EVALUATION:--Provide-the-monthly-day-and-year-for the-date-medical-evaluation-was-completed-by-a-physician-or-health-care provider-(e-g-7-06/10/92)-
- 12+ DATE-OP-LAST-MEDICAL-ACTION:--Provide-the-monthly-day-and-year-for-the date-last-medical-action-was-provided-by-a-physician-or-health-care provider-i-e-7-medical-treatment-is-completed-
- 13+ LAST-MEDICAL-ACTION:--Indicate-the-last-medical-treatment-provided-by-a physician-or-health-care-provider-
- 14+ CHELATION-PERFORMED:--Indicate-1-for-yes-2-for-no-7-or-9-for-unknown-
- 15+ DATE-OP-PROVOCATIVE-CHELATION:--Provide-the-monthly-day--and--year--e-g-7 10/10/92-
- 16+ COURSES-OP-CHELATION-COMPLETED:--Provide--the--number--of--courses--of chelation-completed-
- 17+ DATE-OP-LAST-CHELATION-COMPLETED:--Provide-the-monthly-day-and-year--e-g-7 10/10/92-
- 18+ TREATED-OR-REFERRED-FOR-IRON-DEFICIENCY:--Indicate-1-for-yes-2-for-no-7-or-9-for-unknown-
- 19+ OTHER-MEDICAL-PROBLEMS:--Indicate-other-medical-problems-as-appropriate-

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20. ALTERNATIVE--HOUSING--PROVIDED--indicate--1--for-yes, 2--for-no, or 9--for unknown;

21. CASE--OR--OTHER--IN--HOUSEHOLD--PREGNANT--AT--TIME--OF--DIAGNOSIS--if the case or other in household is pregnant at the time the elevated blood level sample is taken indicate by entering a 0 for not applicable (N/A), 1 for yes, if not pregnant enter a 2 for no, or if unknown enter a 9;

22. TRIMESTER--OF--PREGNANCY--if the case or other in household is pregnant at the time the elevated blood level sample is drawn enter the trimester by marking 1 for first, 2 for second, 3 for third, if not applicable enter 0 for zero;

23. THE---CHILD---WAS---SCREENED---BECAUSE--indicate the reason for routine screening as part of: 1 for well child care, 2 for screening due to high risk factors, 3 for screening due to elevated blood level of adult in home, 4 for screening due to pica, 5 for screening due to symptoms of lead poisoning, 6 for screening due to parents or guardians request;

24. HAS---THE---CHILD---BEEN---SCREENED---FOR---HEAD---POISONING---PRIOR---TO---THIS IDENTIFICATION--indicate 1 for yes or 2 for no--if yes enter the month, day and year of the last screening and the results of the screening--Use two digits for month, date and year (e.g., 09/20/90); Enter the results in mcg/dl for the blood lead level;

25. REFERRAL--FOR--DEVELOPMENTAL--SCREENING--WAS--MADE--indicate 1 for yes or 2 for no;

26. ENVIY--TO--WHICH--REFERRAL--WAS--MADE--indicate 1 for local school district, 2 for early intervention program (birth to three years), 3 for Head Start, 4 for local health department, or 5 for other (please specify);

27. DATE--OF--REFERRAL--FOR--DEVELOPMENTAL--SCREENING--indicate month, day and year the referral for a developmental screen was made;

28. DOES--THE--CHILD--EXHIBIT--A--DEVELOPMENTAL--DELAY--indicate 1 for yes, 2 for no, or 9 for unknown--Enter 3 for cognitive/mental delay, 4 for speech/language delay, 5 for physical delay, or 6 for social/self-help delay--Enter all appropriate responses;

29. HOW---WAS---DEVELOPMENTAL---DELAY---DETERMINED--indicate 1 for Denver Developmental Screening Test, 2 for McCarthy Screening Test, 3 for Early Screening Inventory, 4 for Developmental Profile II, 5 for Minnesota Preschool Screening Instrument, 6 for Vineland Social Maturity Scale or 7 for other;

30. DATE--OF--REFERRAL--FOR--ENVIRONMENTAL--INSPECTION--indicate month, day, and year for the date referral was made (e.g., 01/13/90);

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31. DATE--OF--NURSE--HOME--HEAD--INVESTIGATION--Enter the month, day and year of the nurse home visit (e.g., 7-09/10/90)--Use two digits for month, day and year;

Report--Information--within--90--days--of--confirmation--of--receipt--of--the Childhood Head Poisoning Report of 15 mcg/dl to: Illinois Department of Public Health  
Childhood Head Poisoning Reporting System  
Division of Family Health  
535 West Jefferson  
Springfield, IL 62761

(Source: Amended at 21 Ill. Reg. effective  
MAY 31 1997)



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## NOTICE OF ADOPTED AMENDMENTS

Section 845, EXHIBIT C Instructions for Reporting Information by Delegate Agencies on Environmental Inspection for Cases of 20 mcg/dl and Above (Repealed)

- 1- CASE DATA  
 Best-Name:--Provide-the-complete-last-name-  
 First-Name:--Provide-the-complete-first-name-  
 Maiden-Name:--Provide-the-Mother's-Maiden-Name-of-the-case-  
 Date-of-Birth:--Provide-the-case's-date-of-birth:--month-day-year-  
 Locations-where-inspections-were-conducted:--Provide-street-number-  
 street-name-and-city-
- 2- DATE-OF-ENVIRONMENTAL-INSPECTION:--Indicate-the-date-the--environmental inspection--was-conducted-by-month-day-and-year-(e-g-7-09/15/90):--Enter two-digits-for-the-month-day-and-year-
- 3- INSPECTION-RESULTS:--Indicate-1-for-lead-paint-hazard-interior-only,--2 for--lead-paint-hazard-exterior-only,--3-for-lead-paint-hazard-both interior-and-exterior,--or-4-for-no-lead-paint-hazard-found-
- 4- NON-LEAD-PAINT-HAZARD:--Indicate-1-for-soil,--2-for-water,--3-for-air,--4 for-dust,--or-9-for-unknown-
- 5- DWELLING-TYPE-WHERE-LEAD-HAZARD-WAS-IDENTIFIED:--Indicate-1-for-detached single-residence,--2-for-attached-single-residence,--4-for-day-care,--5-for school,--or-6-for-other-
- 6- LEAD-HAZARD-WAS-ABATED:--Indicate-1-for-year-2-for-not
- 7- ALTERNATIVE-TO-HOUSING-PROVIDED:--Indicate-1-for-yes-if-child-was-removed from-the-premises-while-remediation-was-occurring,--2-for-no,--or--9-for unknown-
- 9- VIOLATION-OF-DEPARTMENT-RULES:--Indicate-1-for-yes--if-the-State's Attorney's-Office-was-required-to-take-legal-action-for-the-removal-of the-lead-hazard,--or-2-if-no-legal-action-was-required-

Mail-completed-form-within-30-business-days-upon-completion-of-environmental inspection-process-to:

Illinois-Department-of-Public-Health  
 Division-of-Family-Health  
 Childhood-Lead-Poisoning-Reporting-System  
 535-W-Jefferson-Street  
 Springfield-IL-62761

(Source: Repealed at 21 Ill. Reg. 7444, effective MAY 31, 1993)

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## NOTICE OF ADOPTED AMENDMENTS

Section 845, APPENDIX B Testing for Lead in Paint by Portable X-Ray Fluorescence Lead in Paint Analyzer (XRP) (Repealed)

Operation-of-the-XRP-and-interpretation-of-Measurements  
 This-Section-is-devoted-exclusively-to-direct-reading-XRPs--the-qualifier "direct-reading"--will-generally-be-omitted,--in-this-Section-only--There-are four-topics--first-tests-for-correct-operation-of-the-instrument--second, improving-the-precision-of-the-reading-by-taking-repeated-measurements,--third, improving-accuracy-by-correcting-for-the-reading-obtained-on-the-substrate-to which-the-paint-adheres--fourth,--statistical-rules-for-deciding-whether-the lead-level-in-the-paint-exceeds-the-standard-

# 1) Checking-the-Operation-of-the-XRP

There-are-two-different-types-of--checks--that--the--operator--should perform--to--ensure--that--the--instrument-is-operating-properly--The-XRP should-be-tested-hourly-against-the-manufacturer's--standards--or--if the-inspection-time-is-less-than-one-hour-at-the-beginning-and-end-of the-unit--inspection--the--instrument--should--give-a-reading-within-the specified-tolerance-for-each-standard-especially-the-zero-standard--The-manufacturer's-specifications--generally--require--that--the variability--to-be-expected--in-a-single-measurement-be-no-greater-than 0-5-mg/em(2)--This-can-be-checked-quite-simply-by-taking-3-repeated measurements-at-the-same-point--These-will-generally-be-different not-necessarily--because-of-operator-error-or-problems-with-the instrument--but--because-of--the--natural-variability-of--XRP measurements--However,--too-great-a-variation--in--the--3--values--can provide--a--reliable--indication--of--problems--if--the--range (maximum-minimum) of-the-three-measurements-exceeds-1-7-mg/em(2)--The measurements-should-be-discarded-and-the-process-repeated--Often-the problem-will-be-due-to-a-change-in-substrate-and-will-correct-itself- If-the-second-set-of-three-measurements-also-fails--the-range-check, the-specific-XRP-should-not-be-used-on-that-type-of-building component,--and-should-be-checked-against-the-manufacturer's--standards to-determine-whether-it-is-operating-properly-

2) Improving-Precision-by-Repeated-Measurements  
 The-basic-technique-for-reducing-the-variability-of-XRP-readings-is-to take--repeated-measurements--at--the--same-point--Statistical-theory shows-that-the-variability--of--the--average--of--a--set--of--repeated measurements--is-less-than-the-variability-of-individual-measurements-- For-example,--the-average-of-three-independent-readings--is--42%--less variable--than--a--single-reading--The-greater-the-number-of-repeated measurements,--the-greater-the-reduction-in-variability--For-practical reasons,--XRP-operators-are-generally-required-to-take--three--readings at--each--sampled-point--An-exception-may-be-made-when-the-first-two readings-are-very-high,--e-g,--over-6-0-mg/em(2)--Two-such-readings are--considered--reliable--evidence--that--the-lead-level-in-the-paint exceeds--the-standard--in-the-rest-of-this-Section--an-XRP-reading will--be--assumed--to--be--the-average-of-three-repeated-measurements, unless--otherwise--noted-

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- 3) Improving Accuracy by Correcting for the Substrate Reading  
The XRP instrument will give a zero lead reading only on certain very simple substrates for which it is set to zero by the manufacturer. In other words, the XRP will generally give a non-zero reading on a surface that is lead-free. Such readings can be positive or negative. In the NIST study, readings as high as 2.0 mg/cm<sup>2</sup> were obtained on lead-free surfaces. This means that, unless the XRP reading is very high, there is a real possibility of interference by the substrate beneath the paint.
- A reading of 3.0 mg/cm<sup>2</sup> on a flat surface or 4.0 mg/cm<sup>2</sup> on a curved surface or one whose area is less than the minimum specified by the manufacturer is considered sufficiently high to provide assurance that the lead level in the paint exceeds 1.0 mg/cm<sup>2</sup>. If the reading is below these levels, the owner or its agent can choose either to obtain laboratory analysis for the component or to correct the XRP measurement for interference from the substrate. This is accomplished by removing the paint down to the bare substrate, taking three repeated measurements on the bare substrate, averaging these measurements, and subtracting this result from the reading obtained on the paint. The following terminology is often used:
- Apparent Lead Concentration (ALC) = Average of 3 paint readings  
Substrate Equivalent Lead (SEL) = Average of 3 bare substrate readings  
Corrected Lead Concentration (CLC) = ALC - SEL
- The NIST study showed that, for practical purposes, the substrate correction removes any bias in the lead concentration reported by the XRP. It is quite possible for the CLC to be negative because of the variability of the instrument. However, a CLC of 0.6 mg/cm<sup>2</sup> or less is an indication that the specific XRP does not provide reliable readings on the component being tested. The XRP should be checked against the manufacturer's standards to ensure it is operating properly.
- In inspecting the dwelling units, it will generally be possible to establish substrate corrections applicable to all components of the same type in similar units. Thus, for example, all doors in a building may be of the same construction. In such cases, paint need be removed from only one or two of the components in order to determine the substrate correction. This will greatly reduce the number of samples for which paint must be scraped. However, the inspector must be careful to ensure that the substrate truly is the same as the one for which an SEL determination has been made. Thus, this approach will generally not be feasible when inspecting a project which consists of a large number of dissimilar buildings.
- 4) Statistical Rules for Deciding Whether the Lead Level in Paint Exceeds the Standard
- Although the techniques of taking 3 repeated measurements and correcting for interference from the substrate as described above greatly improve the quality of the XRP reading, considerable measurement variability remains, especially at lead levels close to

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the standard of 1.0 mg/cm<sup>2</sup>. This makes it difficult to correctly classify paint with a lead level close to 1.0 mg/cm<sup>2</sup>. Two types of error are possible. The first is a false positive, i.e., classifying the paint as having a lead level above 1.0 mg/cm<sup>2</sup> when it actually has a lead level below 1.0 mg/cm<sup>2</sup>. The second type of error is a false negative, i.e., a failure to detect a lead level above 1.0 mg/cm<sup>2</sup>. The two types of errors have different consequences. False positives lead to unnecessary abatement, while false negatives may have serious health consequences for resident children.

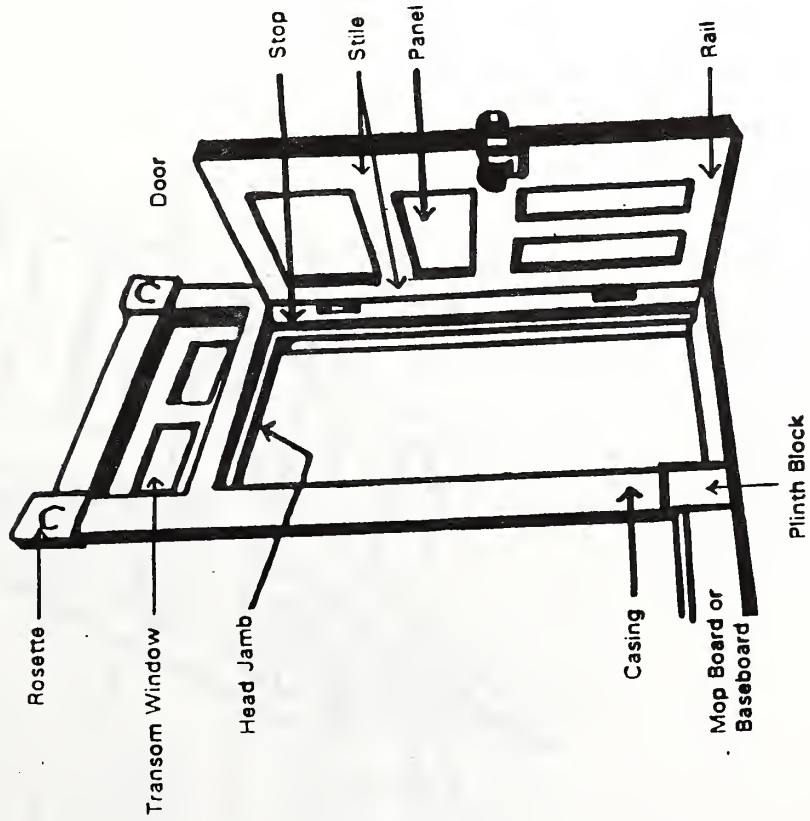
To minimize the incidence of the two types of errors, the inspector should report his/her results to the PHA as follows: If a CLC of 1.6 mg/cm<sup>2</sup> or greater is obtained, then a positive reading is reported. If the CLC is below 0.5 mg/cm<sup>2</sup>, a negative is reported. For CLCs between 0.5 and 1.5 mg/cm<sup>2</sup>, the result is reported as ambiguous. The inspector should provide a summary of his/her results, specifying for each type of building component, the number tested and the number of positive, negative and ambiguous test results. This summary will be used to decide on the need for further XRP testing, laboratory confirmation or abatement.

(Source: Repealed at 21 Ill. Reg. 7498, effective 7/1/86)

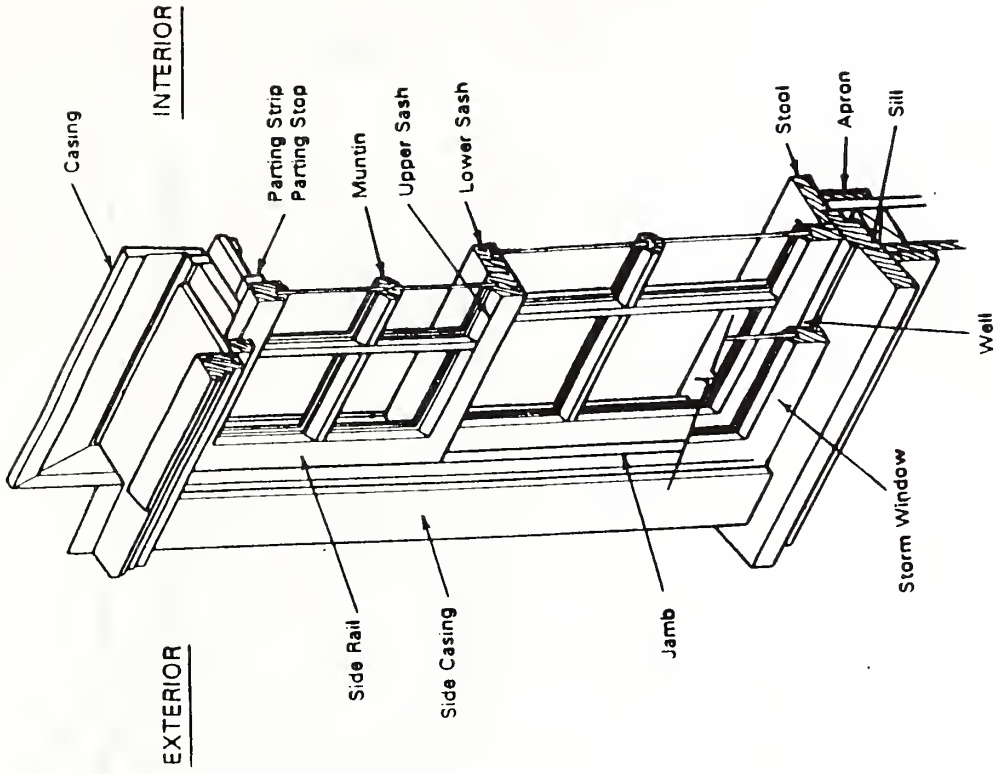
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Section 845.APPENDIX C Diagram of Building Components Testing-for-head-Being-a  
Spectrum-Analyser

Diagram of Building Components

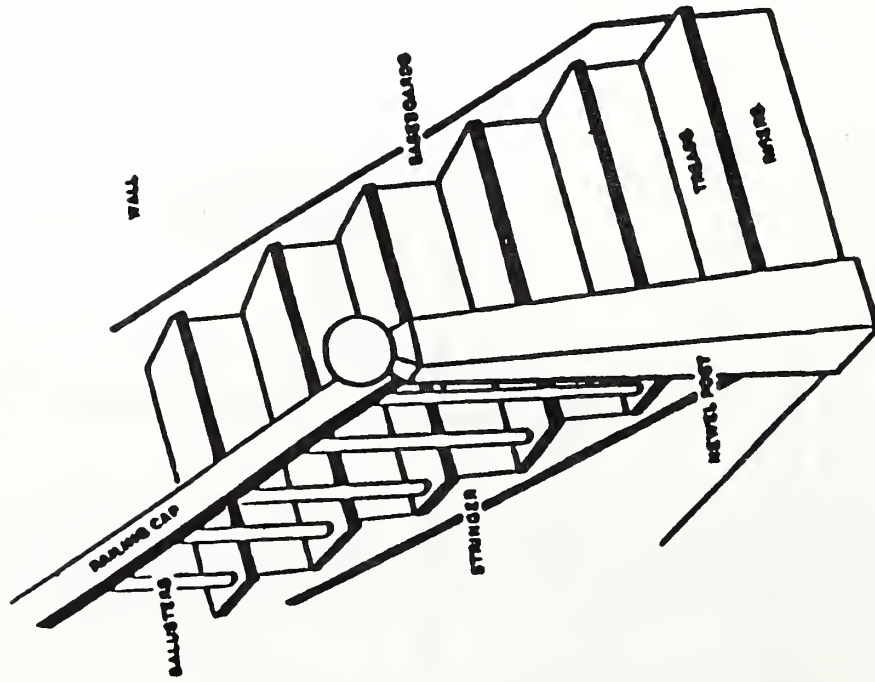


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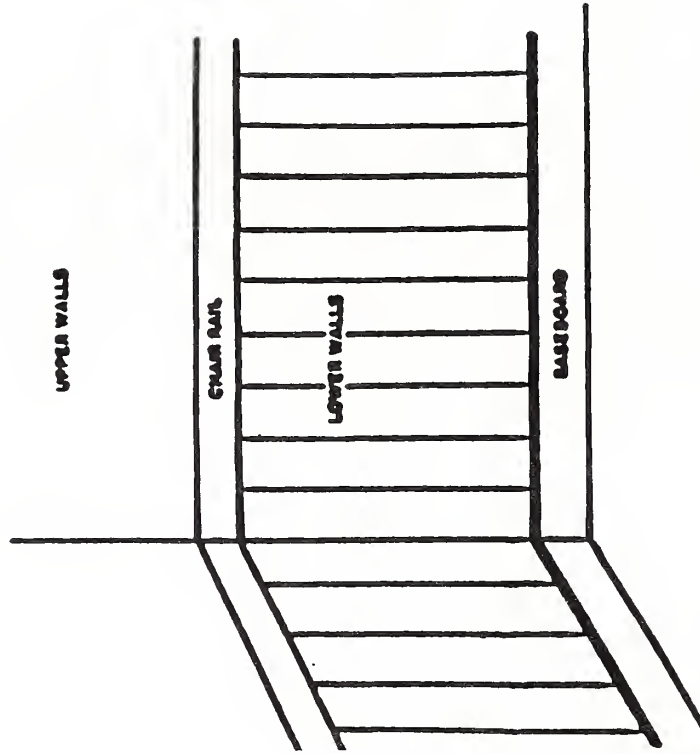




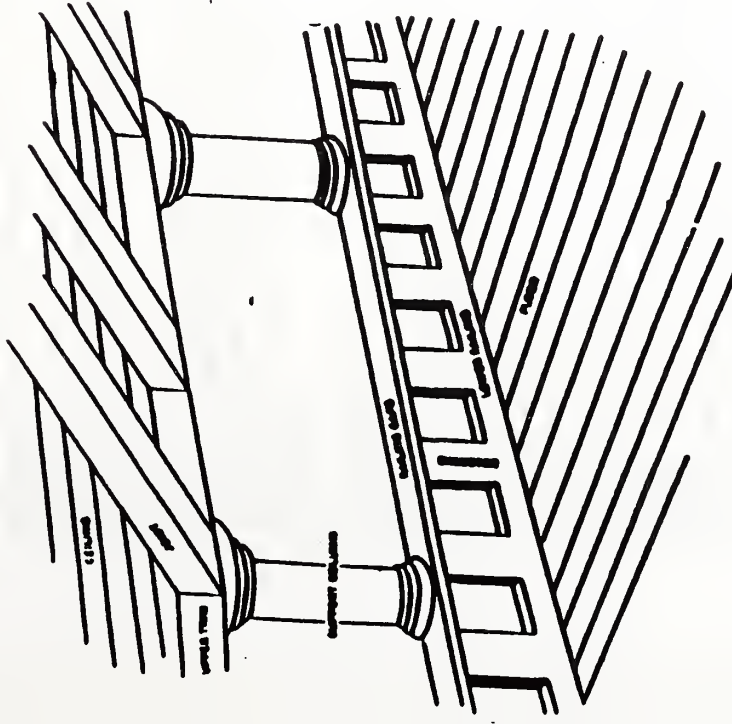
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- Chimney flue or pipe
- Chimney
- Fishing
- Ridgeboard
- Ceiling beam
- Vent; louver
- Cornice return
- Brick veneer
- End rafter
- Insulation
- Top double plate

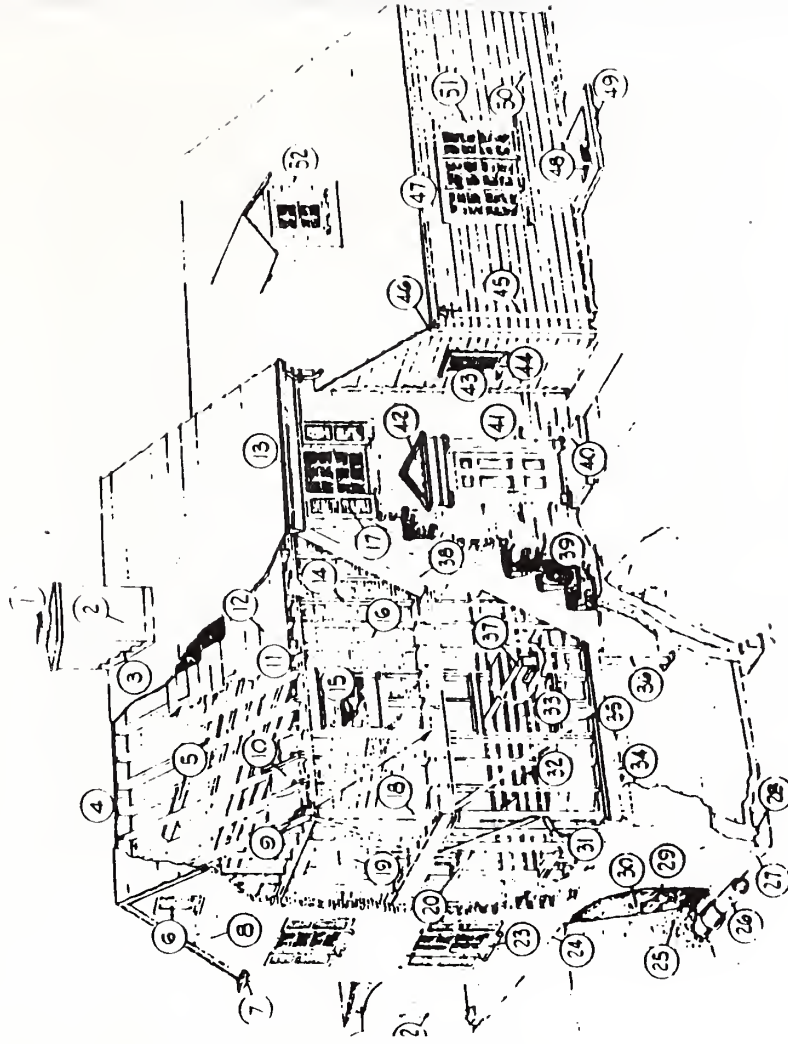
- 12. Roof decking
- 13. Gutter
- 14. Stud
- 15. Flooring paper
- 16. Finish flooring
- 17. Shutter
- 18. Corner post
- 19. Subfloor
- 20. Lintel header
- 21. Porch frieze board
- 22. Porch post

- 23. Brick sill
- 24. Grade line
- 25. Cinder or gravel fill
- 26. Drain tile
- 27. Footing
- 28. Keyway
- 29. Foundation wall
- 30. Waterproofing
- 31. Knee brace
- 32. Bridging
- 33. Floor joist

- 34. Sill plate
- 35. Corner brace
- 36. Steel ceiling
- 37. Beam girder
- 38. Wall sheathing
- 39. Building paper
- 40. Shear
- 41. Trim plaster
- 42. Pediment door trim
- 43. Double-hung window
- 44. Windereall

- 45. Downspout
- 46. Gate mold
- 47. Mullion
- 48. Basement window
- 49. Arched wall
- 50. Level siding
- 51. Wood window trim
- 52. Corner

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- 34. Sill plate
- 35. Corner brace
- 36. Steel ceiling
- 37. Beam girder
- 38. Wall sheathing
- 39. Building paper
- 40. Shear
- 41. Trim plaster
- 42. Pediment door trim
- 43. Double-hung window
- 44. Windereall

- 23. Brick sill
- 24. Grade line
- 25. Cinder or gravel fill
- 26. Drain tile
- 27. Footing
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- Chimney flue or pipe
- Chimney
- Fishing
- Ridgeboard
- Ceiling beam
- Vent; louver
- Cornice return
- Brick veneer
- End rafter
- Insulation
- Top double plate

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11) When a spectrum analyzer with energy resolution greater than (about) 3 KeV (FWHM 875 KeV) is used to store the paint "K" X-ray spectrum, it is helpful to record the sample information and the number of the stored spectrum. Also, "B" X-rays can be used for lead screening with a spectrum analyzer provided that the analyzer has sufficient resolution to differentiate lead from other elements (zinc, copper, etc.) which could give false positive results. Screening with "B" X-rays provides a very rapid, nondestructive, semi-quantitative method. If lead "B" X-ray intensity indicates more than 1.0 mg/cm<sup>2</sup> of lead is present, the "K" X-ray intensity will indicate a much higher amount. The opposite is not true. "K" X-ray intensity should be used when quantitative analysis is desired. Sample sheets should be developed to accommodate this type of technology.

Instructions for Completing a BHP Inspection Form for Direct Reading XRP's and Spectrum Analyzers

Example BHP inspection forms are attached. These forms illustrate the kind of information that should be recorded by inspectors performing assays for lead in paint in buildings. Some of the information such as number of doors, number of windows, number and types of rooms, is important in estimating the extent of any abatement indicated by the results of the lead inspection. Inspection forms have been developed in a spreadsheet format (Lotus 1-2-3) which performs calculations from the data obtained.

## COVER PAGE:

This page is designed to be a cover page for the entire unit to be inspected for BHP. The total number of rooms to be inspected should be noted. The number of pages which follow that are relevant to this specific unit should be indicated on this page. The inspector and XRP operators should be noted on this page. The inspector should initial this page and all pages that follow to certify the results of the inspection.

A map of the dwelling unit should be constructed and rooms numbered from left to right (clockwise) from the entry to ensure that the sampled surfaces can be located. Constructing such a map will assist in planning abatement of surfaces which are determined to be hazardous.

All XRP's which are used in the unit should be recorded by manufacturer and serial number. This is important when several different XRP's are used in a project and one breaks down during the inspection. It may be necessary to reinspect the units that were assayed by the XRP.

The sequence number of the unit inspection for that day should be recorded. In some cases the XRP zero may drift beyond manufacturer's tolerances. If the zero is checked hourly or at the beginning and end of each unit inspection, the effects of zero drift on XRP accuracy can be minimized. Recording the starting time and the sequence number of the unit inspected and then recording the XRP samples in a

## DEPARTMENT OF PUBLIC HEALTH

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numerical sequence in the order in which they were performed will allow for the operator to establish that the maximum effect of the zero drift was during the time of the inspection. Each XRP should be standardized both before and after a unit inspection.

## FRONT PAGE:

This page is designed to be a front page for a specific room inspected for BHP. The room should be indicated by a number consistent with the cover page numbering. A map of the room should be constructed in the space provided. The map should indicate closets, windows, doors, etc., by number. The purpose of the map is to clearly indicate where any lead hazard exists in the room. The number of windows and doors will be helpful in abatement planning if necessary. Each sampled spot should be indicated by number on the map. The number used must correspond to the number of the sample on the data recording portion of the forms.

Each XRP sample should be assigned a number chronologically sequenced which correlates to a number on the map of the room constructed at the beginning of the room inspection. Each sample number should be associated with a specific XRP. In the event that XRP malfunctions, it may be necessary to repeat the analysis on those samples with another functioning XRP. For example, if two XRP's are used, serial #213 and 147.4, then one can be noted as A on the COVER PAGE and the other B. The samples can then be numbered as A-1 for XRP "A" and Room 147. XRP sample "A" Other numbering schemes are satisfactory as long as a specific XRP can be associated with a specific XRP sample.

## DATA PAGES:

Spaces are provided to record a maximum of 3 ABC's and 3 SEB's per XRP sample for direct reading XRP's. The average of the readings, the calculated GBC (if necessary) and the results of the laboratory test on the paint films, typically 3 readings are necessary but 2 readings are sufficient if they are greater than 6 mg/cm<sup>2</sup>. The result of at least one single read eye is recorded and repeated 3 times in the same spot. Successive averages of multiple readings can also be recorded provided that the single reading range can be derived from the readings to ensure that this range is less than or equal to 1.7 mg/cm<sup>2</sup>.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective MAY 3, 1994)



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Section 845. ILLUSTRATION A Inspection Forms and Diagram of Building Components  
(Repealed)

BBP-INSPECTION-FORM

COVER-PAGE

Project-----Unit ID-----Number-of-Rooms-----Number-of-Pages-Attached-----

Address-----XRP Mfr.-----Sequence-Number-----

Inspection-Company-----Serial-Numbers-of-XRPs-Used-----

No.-of-Windows-----No.-of-Doors-----No.-of-Bedrooms-----No.-of-Bathrooms-----

Inspector---

Inspector-Notes:

=====

Diagram-of-Unit:

Label-rooms-by-number-clockwise-from-entry.--Note-unusual-features-of-the-unit:

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BBP-INSPECTION-FORM

FRONT-PAGE

Room-Name-and-Number-----Page-of-Date-----Sequence-Number-----

Street-----Time-----a.m.-----p.m.-----Inspector-----Operator-----

Project-----Company-----XRP-Serial-#-----

No.-Doors-----No.-Windows-----BBB-Case-ID-----Sampling-Temp.-----XRP-Calibration-Bog  
Page---

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## BDP-INSPECTION-FORM

## DATA-PAGE

Room-Name-and-Number----- Page-of-Date-----Sequence-Number-----  
Street----- Time-----a.m.-----p.m.-----Inspector-----Operator  
-----  
Project----- Company----- XRP-Serial-#-----  
No.-Boors---No.-Windows---BBB-Case---ID---Sampling-Temp---XRP-Calibration---Boo  
Page---  
(Source: Repealed at 21 Ill. Reg. 7444.3, effective  
11/1/84)

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## Section 845. APPENDIX F Childhood Lead Risk Assessment Questionnaire

ILLINOIS DEPARTMENT OF PUBLIC HEALTH DIVISION OF FAMILY HEALTH  
CHILDHOOD LEAD RISK ASSESSMENT QUESTIONNAIRE

Medical evaluation of a patient to determine lead exposure includes knowledge of the child's geographic location and living conditions in combination with the history and physical exam. The first question in this process is:

DOES THE CHILD, AGES 6 MONTHS TO 24 MONTHS, LIVE IN A HIGH RISK ZIP CODE AREA  
(REFER TO ZIP CODES ON REVERSE SIDE)?

(If "N" continue with additional questions)

Y N

## ASSESSMENT OF ALL OTHER CHILDREN

Circle the appropriate response

Does the child, ages 6 months to 24 months:

Live in or regularly visit a home or building (school or daycare) built before 1960?

Y N

Live in or regularly visit a home or building built before 1960 which has recently been or is currently under renovation or remodeling?

Y N

Live with a person whose occupation or hobby involves exposure to lead?

Y N

Receive or have ever received herbal medicines or home remedies (see guidelines)?

Y N

## POPULATION BASED ASSESSMENT QUESTIONS

(Use at physician's discretion)

Live close to an active lead smelter, battery recycling plant, lead mine, and/or other industry likely to release lead into the environment?

Y N

Does the family use imported or glazed ceramics for food preparation, storage or as dinnerware?

Y N

Ever been to Central or South America or Mexico where lead exposure could potentially occur?

Y N

CHILDREN WITH A POSITIVE RESPONSE TO ANY ONE OF THE QUESTIONS NOTED ABOVE WILL NEED BLOOD LEAD TESTING TO COMPLETE THE SCREENING PROCESS. DUE TO SIMILAR

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ENVIRONMENTAL EXPOSURE, CHILDREN WITH SIBLINGS WHO HAVE ELEVATED BLOOD LEAD LEVELS SHOULD HAVE BLOOD LEAD TESTING.

The Lead Risk Assessment Tool may be used to complete the Lead Assessment component of the Well Child visit. The assessment is recommended annually for all children from 6 months through 24 months of age.

POSSIBLE METHODS OF EXPOSUREOCCUPATIONS

Auto repair  
 Battery manufacture or repair  
 Brass/copper foundry  
 Bridge reconstruction workers  
 Chemical/chemical preparation manufacturers  
 Construction workers  
 Gas station attendants  
 Glass manufacturers  
 Industrial machinery equipment operators  
 Lead smelters and refiners  
 Lead miner  
 Plastics manufacturers  
 Plumbers, pipe fitters  
 Police officers  
 Printers  
 Radiator repair  
 Rubber products manufacturers  
 Steel welders and cutters

HOBBIES

Car or boat repair  
 Casting lead figures (toy soldiers, etc.)  
 Furniture refinishing  
 Home remodeling  
 Jewelry making  
 Lead soldering (i.e., electronics)  
 Painting  
 Preparing lead shot, fishing sinkers, bullets  
 Reloading cartridges  
 Stained glass making  
 Target shooting at firing ranges

ENVIRONMENTAL

Ceramics/Pottery  
 Lead crystal  
 Lead paint  
 Lead painted homes  
 Lead soldered cans (imported)  
 Proximity to lead related industries  
 Renovating/remodeling older homes  
 Soil/dust near industries, roadways  
 Use of water from leaded pipes

OTHER

Asian Cosmetics  
 Folk remedies (greta, azarcon, pay-loo-ah, ghasard, Hai ge fen, Bali Goli, Kandu, Kohl, X-yoo-Pa, Mai ge fen and poying ton)  
 Imported food in lead soldered cans

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Blood test mandatory. Repeat as noted in Guidelines.

HIGH RISK  
ZIP CODE

LOW RISK  
ZIP CODE

Blood lead test required for any yes answer. Follow-up as indicated in Guidelines.  
No blood lead test required when all answers are no.  
Reassess annually at each Well Child visit.



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Pediatric Lead Poisoning High Risk ZIP Code Areas

61346 62510 62427 62844 61484

Adams61349 62531 62433 62863  
61361 62540 62449  
62312 62546 62451 Pffingham  
61368 61368 62550 62454  
62325 61374 62557 62464  
62338 61376 62568 6246662339Fayette62343Cumberland62346622626234862420623516242862359624426236562477Alexander62435629136246862914Dewitt629616172762962628806299362885BondFord620866091962246605506228260556Boone60933None60946Brown609526232460957623536191162375609596237861913Bureau609606131460962613226177361328Franklin6132962805613386281261342628226134462874613456288462075628966207562983620756299962075Fulton6207561415620756142762075614316207561432620756144162075614596207561477

## ILLINOIS REGISTER

## DEPARTMENT OF PUBLIC HEALTH

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[illegible]

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62565  
Stark  
61421  
61449  
61479  
61483  
61491  
Stephenson  
61013  
61032  
61039  
61050  
61089  
Mazewell  
61554  
61564  
61734  
Union  
62926  
62961  
62998  
Vermilion  
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61876  
61883  
Wabash  
62863  
Warren  
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Washington  
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Wayne  
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White  
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62821  
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62862  
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62887  
Whiteside  
61014  
61071  
61081  
61243  
61252  
61261  
61270  
61277  
61283

Will  
60432  
60433  
Williamson  
62921  
62948  
62949  
62951  
Winnebago  
61077  
61101  
61102  
61103  
61104  
Woodford  
61545  
61561  
61570  
61738  
61760

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(Source: Added at 21 Ill. Reg. effective  
MAY 3 1 00)



## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENTS

## Section 845 APPENDIX G Information Agreement

## Information Agreement

The Illinois Department of Public Health ("Department"), and ("Applicant"), agree as follows:

- 1) The Department will provide data dealing with children who have been tested for lead poisoning in Illinois as outlined in the letter of application.
- 2) The applicant agrees that:
  - a) use of data is restricted to the purpose outlined in the letter of application (Attachment A) and any other or additional use of the data may result in immediate termination of this agreement by the Department;
  - b) any and all data which may lead to the identity of any child or parent, research subject, physician, informant, other person or hospital is strictly privileged and confidential. Applicant agrees to keep all such data strictly confidential at all times;
  - c) all officers, applicants and employees of Applicant will keep all such data strictly confidential. Applicant will communicate the requirements of this section to all officers, applicants and employees, will discipline all persons who may violate the requirement of this section, and will notify the Department in writing within 48 hours of any violation of this section, including full details of the violation and corrective actions to be taken;
  - d) all data provided by the Department pursuant to this agreement is the sole property of the Department. Any copies by applicant of data provided by the Department pursuant to this agreement are subject to all provisions contained herein. Any copies of data created by Applicant will be destroyed upon completion of the purpose outlined in the application;
  - e) the applicant agrees to forward to the Department copies of proposed publications containing data or interpretation of data received as a result of this agreement for the sole purpose of confirming compliance with this agreement;
  - f) any breach of any of the provisions of this agreement will void the agreement.
- 3) The applicant further agrees to state in publications and presentations concerning research which is the subject of this agreement that the Department was the source of data and that conclusions, opinions and recommendations are not necessarily those of the Department.
- 4) The Applicant and the Department understand and agree that this agreement may not be sold, assigned or transferred in any matter and that any actual or attempted sale, assignment or transfer shall render this agreement null, void and of no further effect.
- 5) This agreement shall take effect upon signature by the applicant and

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENTS

the Director of Public Health.

- 6) All notices required or requested by either the Department or the Applicant shall be sent to the following addresses:

to the Department: Illinois Department of Public Health  
 Childhood Lead Poisoning Prevention Program  
 535 West Jefferson Street  
 Springfield, Illinois 62761-0001  
 Attn: Mary Miller

to the Applicant: \_\_\_\_\_

Attn: \_\_\_\_\_

- 7) The Applicant and the Department understand and agree that this Agreement constitutes the total agreement between them and that no promises, terms or conditions, either oral or written, express or implied, not recited, incorporated or referenced herein shall be binding.

Applicant \_\_\_\_\_

Department \_\_\_\_\_

(Signature) \_\_\_\_\_

(Recommended by) \_\_\_\_\_

(Title) \_\_\_\_\_

(Director, Department) \_\_\_\_\_

(Typed/printed name) \_\_\_\_\_

(Execution date) \_\_\_\_\_

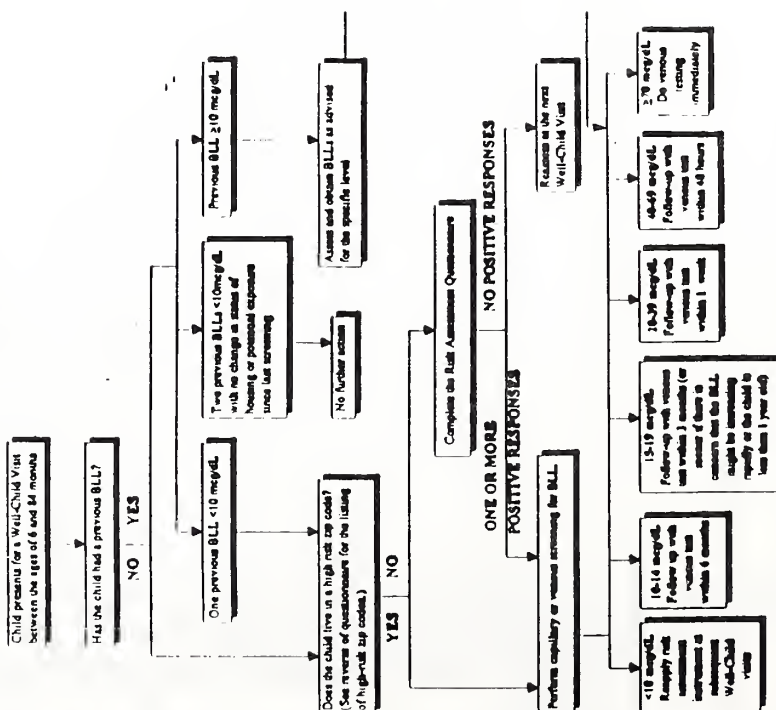
(Source: Added at 21 Ill. Reg. 7421, effective MAY 9 1997)

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## Section 845. APPENDIX H Childhood Lead Poisoning Assessment and Screening Algorithm

## Childhood Lead Poisoning Assessment and Screening Algorithm



Recommendations for subsequent assessment, screening, and/or treatment are based on the following blood lead levels.

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(Source: Added at 21 Ill. Reg. effective MAY 31, 1997)

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Regulations Under the Illinois Securities Law of 1953
- 2) Code Citation: 14 Ill. Adm. Code 130
- 3) Section Numbers: Adopted Action:  
130.212 New
- 4) Statutory Authority: 815 ILCS 5/11.A
- 5) Effective Date of Rulemaking: May 23, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: May 23, 1997
- 9) Notice of Proposal Published in Illinois Register: February 28, 1997 21 Ill. Reg. 2852
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version: No substantial changes were made. The only changes made were the ones agreed upon with JCAR.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

Section Numbers Adopted Action Illinois Register Citation  
130.293

- 15) Summary and Purpose of Rulemaking: Section 130.212 - Added new Section to permit issuers of securities to solicit indications of interest prior to filing an application for registration or paying fees.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Name: Theresa Oxtoby  
Address: Assistant to the Director  
520 South Second Street  
Springfield, IL 62701  
Telephone: (217)782-2256

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

The full text of the Adopted Amendment begins on the next page:



## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

TITLE 14: COMMERCE  
SUBTITLE A: REGULATION OF BUSINESS  
CHAPTER I: SECRETARY OF STATE

## PART 130

## REGULATIONS UNDER ILLINOIS SECURITIES LAW OF 1953

## SUBPART A: RULES OF GENERAL APPLICATION

Section 130.100	Business Hours of the Securities Department
130.101	Computation of Time
130.110	Payment of Fees
130.120	Place of Filing
130.130	Date of Filing
130.135	Registration of Securities under Section 5 or 7 of the Act Utilizing the SRD
130.140	Requirements as to Proper Form
130.141	Additional Information
130.142	Additional Exhibits
130.143	Information Unknown or Not Reasonably Available
130.144	Requirements as to Paper, Printing, and Language
130.145	Number of Copies--Signatures
130.190	Provisions for Granting of Variance from Rules

## SUBPART B: DEFINITIONS

Section 133.200	Definitions of Terms Used in the Act and the Rules
130.201	Definition of the Term "Investment Contract", as Used in Section 2.1 of the Act
130.202	Definition of the Term "Fractional Undivided Interest", as Used in Section 2.1 of the Act with Reference to Oil and/or Gas Leases, Rights or Royalties
130.205	Definition of the Term "Issuer" as Used in Section 2.2 of the Act as Applied to Fractional Interests in Oil, Gas and Other Mineral Leases, Rights or Royalties
130.210	Definition of Acts Not Constituting a "Sale" or "Offer" as Used in Section 2.5 or 2.5a of the Act
130.211	Definition of Acts Not Constituting an "Offer" of Securities under Section 5, 6 or 7 of the Act
<u>130.212</u>	<u>Definition of Acts Not Constituting an "Offer" Under Section 2.5a of the Act ("Testing the Waters")</u>
130.215	Definition of "Commission From an Underwriter or Dealer Not in Excess of the Usual and Customary Distributors' or Sellers' Commissions", as Used in Section 2.6 of the Act for Certain Transactions
130.216	Definition of "Participates" and "Participation", as Used in Section

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130.220	2.6 of the Act in Relation to Certain Transactions Definition of "Regularly Engaged in Securities Sales Activities", as Used in Section 2.9 of the Act
130.221	Exclusion of Certain Persons from the Definition of Investment Adviser in Section 2.11 of the Act
130.225	Definition of "Investment Fund Shares", as Used in Section 2.15 of the Act in Relation to Certain Issuers
130.233	Definition of the Phrase "Promissory Note or Draft, Bill of Exchange or Bankers' Acceptance" as Used in Section 3(L) of the Act
130.234	Definition, For Certain Purposes, of the Terms "Employee Security-Purchase Plan", "Employee Profit-Sharing Trust or Plan", "Employee Pension Trust or Plan", as Used in Section 3.N and Section 3.O of the Act
130.235	Definition, For Certain Purposes, of the Terms "Employee Profit-Sharing Trust or Plan", "Employee Pension Trust or Plan", as Used in Section 3.O of the Act
130.241	Definition of the Term "Institutional Investor" under Sections 4C and 4D of the Act
130.242	Definition of the Term "Financial Institution" under Sections 4C and 4D of the Act
130.244	Definition of "Issuer Required to File Reports Pursuant to the Provisions of Section 13 or Section 15(d) of the Federal 1934 Act" with Respect to Certain Foreign Private Issuers and "Reports Required to be Filed at Regular Intervals Pursuant to the Provisions of Section 13 or Section 15(d)" as Used in Section 4(F)(1) of the Act
130.245	Definition of the Terms "Balance Sheet" and "Income Statement", as Used in Section 4.F of the Act
130.246	Definition of the Terms "Residents of this State", "Aggregate Sales Price" and "Sales Made in Reliance Upon the Exemption" Under Section 4(G) of the Act and "General Advertising or General Solicitation" Under Sections 4(G), 4(H), 4(M) and 4(R) of the Act
130.247	Definition of the Term "Public" as Used in Section 4(G)(4) of the Act
130.248	Definition of the Terms "Offers for Sale" and "Solicitations of Offers to Buy", as Used in Section 4.L of the Act
130.250	Definition, For Certain Purposes, of the Terms "Commissions, Remuneration or Discounts", as Used in Section 4 and Section 5 of the Act
130.251	Definition of the Term "Maximum Aggregate Price", as Used in Section 5 of the Act
130.270	Definition of Certain Persons Not Considered to Be Dealers Under Section 2.7 of the Act
130.280	Definition of the Term "Branch Office", as Used in Section 8 of the Act
130.282	Definition, For Certain Purposes, of the Term "Officers", as Used in Section 2.9 and Section 8.B.(6) of the Act
130.285	Definition, For Certain Purposes, of the Terms "Inequitable", "Tend

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to Work a Fraud or Deceit", "Inequitable Practice in the Sale of Securities", and "Fraudulent Business Practices", as Used in Section 8 and Section 11 of the Act  
 Definition of the Terms "Fraudulent" and "Work or Tend to Work a Fraud or Deceit" as Used in Sections 11.E and 12.F of the Act for Purposes of the Payment of Completion Costs in Connection with the Offer or Sale of Securities Involving an Oil, Gas or Other Mineral Lease, Right or Royalty

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## SUBPART C: EXEMPT SECURITIES

Automated Quotation System Deemed to Have Substantially Equivalent Standards for Designation as Required By One or More Exchanges Set Forth in Section 3(G) of the Act (Repealed)

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## SUBPART D: EXEMPT TRANSACTIONS

Uniform Limited Offering Exemption Pursuant to Section 4.D of the Act

Section  
130.420

Procedures for Applying for Trading Authorization Pursuant to Section 4(F)(2) of the Act  
 Procedures for Filing Reports of Sale under Section 4(G) of the Act  
 Calculation of Number of Persons Under Section 4.G or 4.M of the Act  
 Report of Sale of Securities pursuant to Section 4(G) of the Act  
 Procedures for Filing Reports of Sale under Section 4.P of the Act  
 Report of Sale of Securities Pursuant to Section 4(P) of the Act

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130.442  
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130.491

## SUBPART E: REGISTRATION OF SECURITIES

Title of Securities  
 Financial Statement Requirements  
 Disclaimer of Control  
 Formal Requirements as to Consents  
 Consents Required in Special Cases  
 Application to Dispense with Consent  
 Consent to Use of Material Incorporated by Reference  
 Procedures for Registration of Securities by Coordination under Section 5.A of the Act  
 Procedures for Registration of Securities by Qualification under Section 5.E of the Act  
 Procedures for Registration of Securities by Qualification under Section 5.B(7) of the Act, Small Company Offering Registration ("SCOR") on Form U-7  
 Renewal of Registration of Securities Under Section 5(E) of the Act  
 Computation of Fees

Section  
130.501  
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130.503  
130.505  
130.506  
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130.530  
130.531

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Registration of Additional Securities Pursuant to Section 5(C)(2) of the Act

Formal Requirements for Amendments Under Section 5 of the Act  
 Powers to Amend or Withdraw Registration Statement  
 Signatures of Amendments  
 Delaying Amendments

Withdrawal of Registration Statement, Amendment or Exhibit Filed Under the Federal 1933 Act.

Procedure with Respect to Abandoning Registration Statements, Applications for Trading Authorizations and Post-Effective Amendments

Additional Fees Under Section 5 of the Act  
 Legibility of Prospectuses  
 Presentation of Information in Prospectuses  
 Summaries or Outlines of Documents  
 Preparation of Application for Registration  
 Incorporation of Certain Information by Reference  
 Form of and Limitation Upon Incorporation by Reference  
 Statement Required in Prospectuses

Prospectuses Supplementing Preliminary Material Supplied Previously  
 Application of Amendments to this Part Governing Contents of Prospectuses

Statement as to Stabilizing Required in Prospectuses Filed Under Section 5.B of the Act

Contents of Prospectus When Two or More Registrations Are in Effect Under Section 5.B of the Act

Identifying Statements

Requirements as to Appraisals

Omission of Substantially Identical Documents

Incorporation of Exhibits by Reference

## SUBPART F: FACE AMOUNT CERTIFICATE CONTRACTS

Preamble  
 Procedures for Registration of Face Amount Certificate Contracts by Coordination under Section 6.A of the Act  
 Renewal of Registration of Face Amount Certificate Contracts Under Section 6(F) of the Act  
 Additional Fees Under Section 6 of the Act

Section  
130.600  
130.610  
130.630  
130.650

## SUBPART G: INVESTMENT FUND SHARES

Preamble  
 Title of Investment Fund Shares Registered Under Section 5 or 7 of the Act  
 Procedures for Registration of Investment Fund Shares by

Section  
130.700  
130.701  
130.710

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Coordination under Section 7.A of the Act  
 Amendatory Statement for the Registration of Additional Class or  
 Classes or the Reporting of a Change in Organization or Operations  
 Pursuant to Section 7(D) of the Act  
 Renewal of Registration of Investment Fund Shares Under Section 7(G)  
 of the Act  
 Additional Fees Under Section 7 of the Act  
 Acts Which "Work or Tend to Work a Fraud or Deceit", in Connection  
 with Offers, Sales or Dispositions of Investment Fund Shares

Records Required of Investment Advisers  
 Written Disclosure Statements of a Registered Investment Adviser  
 Financial and Disciplinary Information That Investment Advisers Must  
 Disclose to Clients

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 130.750  
 130.771

130.845  
 130.846  
 130.847  
 130.850  
 130.851  
 130.852  
 130.853  
 130.854  
 130.860  
 130.872  
 130.877  
 130.873

## SUBPART H: REGISTRATION OF DEALERS, SALESPERSONS AND INVESTMENT ADVISERS

Procedure with Respect to Abandoned Dealer Applications  
 Procedure with Respect to Abandoned Investment Adviser Applications

Section  
 130.805

Exemptions From Registration as an Investment Adviser Under Section  
 8(A) of the Act

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 130.811

Service of Process upon the Secretary of State

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## SUBPART K: PROCEDURES FOR ADMINISTRATIVE HEARINGS

## SUBPART J: SERVICE OF PROCESS

130.823  
 130.824  
 130.825  
 130.826  
 130.827  
 130.828

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 130.1103  
 130.1104  
 130.1105  
 130.1106  
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 130.1123  
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 130.1126

Preamble  
 Qualifications and Duties of the Hearing Officer  
 Notice of Hearing  
 Institution of a Contested Case by the Securities Department  
 Requirement to File an Answer  
 Amendment or Withdrawal of the Notice of Hearing  
 Representation  
 Special Appearance  
 Substitution of Parties  
 Failure to Appear  
 Motions  
 Requirements Relating to Continuances  
 Rules of Evidence  
 Form of Papers  
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 Discovery  
 Examination of Witnesses  
 Subpoenas  
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 Record of a Pre-Hearing Conference  
 Hearings  
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 Record of Hearing  
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 Burden of Proof  
 Stipulations  
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 130.832  
 130.840  
 130.841  
 130.842

Notice of Materially Adverse Financial Condition Required to Be  
 Filed With the Securities Department By a Registered Dealer  
 Investor Protection Requirement of a Dealer Registered Under Section  
 8 of the Act  
 Examinations Deemed Satisfactory for Purposes of Determining  
 Sufficient Knowledge Under Section 8(C)(7) of the Act for  
 Registration as a Salesperson  
 Procedures for Registration as an Investment Adviser Under Section  
 8.D of the Act  
 Reporting of Investment Adviser Branch Office Location(s) and  
 Required Fees

130.844

Examinations and Education Programs Deemed Satisfactory for Purposes  
 of Determining Sufficient Knowledge for Each Principal Under Section  
 8(D)(9) of the Act Prior to Registration as an Investment Adviser  
 Statement of Financial Condition to Be Filed By a Registered  
 Investment Adviser Which Retains Custody of Client's Cash or  
 Securities or Accepts Pre-Payment of Fees in Excess of \$500.00 Per  
 Client and Six (6) or More Months in Advance and Interim Financial  
 Statements



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## NOTICE OF ADOPTED AMENDMENTS

130.1127 Corrections to the Transcript  
 130.1128 Imposition of Fines  
 130.1129 Application for Hearing to Present Newly Discovered Evidence

## SUBPART O: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

Section  
 130.1520 Request for Non-Binding Statements

## SUBPART P: SAVINGS PROVISIONS

Section  
 130.1661 Investors Syndicate of America, Inc.  
 130.1662 State Bond and Mortgage Company

## SUBPART Q: PUBLIC INFORMATION

Section  
 130.1701 Inspection of Applications  
 130.1702 Inspection of Dealer, Salesperson and Investment Adviser Records  
 130.1703 Non-Public Distribution of Information

AUTHORITY: Implementing and authorized by the Illinois Securities Law of 1953 [815 ILCS 5].

SOURCE: Filed February 23, 1977, effective March 5, 1977; amended at 5 Ill. Reg. 9139, effective August 27, 1981; amended at 6 Ill. Reg. 6455, effective May 19, 1982; codified at 6 Ill. Reg. 12674; emergency amendment at 7 Ill. Reg. 17427, effective December 31, 1983, for a maximum of 150 days; emergency expired May 31, 1984; emergency amendment at 8 Ill. Reg. 1476, effective January 18, 1984, for a maximum of 150 days; emergency expired June 17, 1984; emergency repealer at 8 Ill. Reg. 3803, effective March 14, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13419, effective July 12, 1984; amended at 8 Ill. Reg. 13840, effective July 19, 1984; emergency amendment at 8 Ill. Reg. 13889, effective July 20, 1984, for a maximum of 150 days; emergency expired December 17, 1984; amended at 9 Ill. Reg. 208, effective December 20, 1984; emergency amendment at 10 Ill. Reg. 393, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 10753, effective June 3, 1986; recodified at 10 Ill. Reg. 19554; emergency amendment at 13 Ill. Reg. 11017, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 14 Ill. Reg. 884, effective December 30, 1989; amended at 14 Ill. Reg. 5188, effective March 26, 1990; emergency amendment at 15 Ill. Reg. 14303, effective November 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 6000, effective March 27, 1992; amended at 20 Ill. Reg. 14185, effective October 21, 1996; amended at 21 Ill. Reg. 7529, effective MAY 22, 1997.

## SUBPART B: DEFINITIONS

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

Section 130.212 Definition of Acts Not Constituting an "Offer" Under Section 2.5a of the Act (Testing the Waters)

a) The solicitation of indications of interest to purchase a security made by or on behalf of an issuer for the sole purpose of soliciting an indication of interest in receiving a prospectus (or its equivalent) for such security does not constitute an offer under Section 5 of the Act provided that all of the following conditions are satisfied:

1) The issuer is, or will be, a business entity organized under the laws of one of the states or possessions of the United States or one of the provinces or territories of Canada, is engaged in or proposes to engage in a business other than petroleum exploration or production or mining or other extractive industries and is not a blind pool offering or other offering for which the specific business or properties cannot now be described. For purposes of this Section, the term "blind pool" means, without limitation, a development stage company that has generally disclosed its business plan or purpose, but such business plan or purpose has not identified specific properties or products to be purchased, constructed or developed;

2) The solicitor intends to register the security under Section 5 of the Act;

3) At least ten business days prior to the initial solicitation of interest under this Section, the solicitor files with the Securities Department a Solicitation of Interest Form together with any other materials or communications which are to be utilized in the solicitation of interest, including, without limitation, the script of any broadcast to be made, the text of any electronic dissemination through such media as the Internet or other data networks, and any similar documents together with a copy of any notice or materials to be published or circulated;

4) At least five business days prior to its usage, the solicitor files with the Securities Department any amendments or supplements to the foregoing materials or additional materials to be utilized in the solicitation of interest, except for materials provided to a particular solicitee pursuant to a request by that person;

5) No Solicitation of Interest Form, script, advertisement or other material which the solicitor has been notified by the Securities Department not to distribute is utilized to solicit indications of interest;

6) Except for scripted broadcasts and published notices, the solicitor does not communicate with any solicitee about the contemplated offering unless the solicitee is provided with the most current Solicitation of Interest Form at or before the time of the communication but no later than five days from the date of communication;

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## NOTICE OF ADOPTED AMENDMENTS

- 7) During the solicitation of interest period, the solicitor does not solicit or accept money or a commitment to purchase securities;
- 8) No sale is made until seven days after delivery to the purchaser of a final prospectus, offering circular or disclosure document as the case may be, or in those instances hereunder in which delivery of a preliminary prospectus is allowed, a preliminary prospectus; and

9) The solicitor does not know, and in the exercise of reasonable care, could not know that the issuer or any of the issuer's officers, directors, ten percent shareholders, partners, members or promoters (or any person performing a similar function):

- A) Has filed a registration statement or an application for a registration of securities which is the subject of a currently effective registration stop order entered pursuant to any federal or state securities law within five years prior to the filing of the Solicitation of Interest Form.
- B) Has been convicted within five years prior to the filing of the Solicitation of Interest Form of any felony or misdemeanor in connection with the offer, purchase or sale of any security, or any felony involving fraud or deceit, including, without limitation, forgery, embezzlement, obtaining money under false pretenses, larceny, or conspiracy to defraud.

C) Is currently subject to any federal or state administrative enforcement order or judgment entered by any state securities administrator or the Securities and Exchange Commission within five years prior to the filing of the Solicitation of Interest Form or is subject to any federal or state administrative enforcement order or judgment entered within five years prior to the filing of the Solicitation of Interest Form in which fraud or deceit, including, without limitation, making untrue statements of material facts or omitting to state material facts, was found.

D) Is subject to any federal or state administrative enforcement order or judgment which prohibits, denies, or revokes the use of any exemption from registration in connection with the offer, purchase or sale of securities.

E) Is currently subject to any order, judgment, or decree of any court of competent jurisdiction temporarily or preliminarily restraining or enjoining such party from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of any false filing with the State entered within five years prior to the filing of the Solicitation of Interest Form.

The prohibitions listed above in subsections (a)(9)(A) through

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(E) of this Section shall not apply if the person subject to the disqualification is duly licensed or registered to conduct securities related business in the state in which the administrative order or judgment was entered against such person or if the dealer employing such party is registered in this State and the Form BD filed with this State discloses the order, conviction, judgment or decree relating to such person. No person disqualified under this Section may act in a capacity other than that for which the person is registered. Any disqualification caused by this Section is automatically waived if the agency which created the basis for the disqualification determines upon a showing of good cause that it is not necessary under the circumstances that the exemption be denied.

- b) A failure to comply with any condition of subsection (a) of this Section will not result in the offer of a security provided that the solicitor demonstrates that:

- 1) the failure to comply did not pertain to a condition directly intended to protect that particular individual or entity;
  - 2) the failure to comply was insignificant with respect to the offering as a whole; and
  - 3) a good faith and reasonable attempt was made to comply with all applicable conditions of subsection (a) of this Section.
- Where a solicitation of interest is established only through reliance upon this subsection (b), the failure to comply shall nonetheless be actionable by the Securities Department as a violation of Section 12 of the Act.

- c) The solicitor shall comply with the requirements set forth below:

- 1) Any published notice, script for broadcast or electronic dissemination through such media as the Internet or other data networks or similar means of communication shall contain at least the identity of the chief executive officer of the issuer, a brief and general description of its business and products, and the following legends:

- A) THIS IS A SOLICITATION OF INTEREST ONLY. NO MONEY OR OTHER CONSIDERATION IS BEING SOLICITED AND NONE WILL BE ACCEPTED;
- B) NO SALES OF THE SECURITIES WILL BE MADE OR COMMITMENT TO PURCHASE ACCEPTED UNTIL THE DELIVERY OF A FINAL OFFERING STATEMENT THAT INCLUDES COMPLETE INFORMATION ABOUT THE ISSUER AND THE OFFERING;
- C) AN INDICATION OF INTEREST MADE BY A PROSPECTIVE INVESTOR INVOLVES NO OBLIGATION OR COMMITMENT OF ANY KIND;
- D) THIS SOLICITATION OF INTEREST IS BEING MADE PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE FEDERAL AND STATE SECURITIES LAWS. NO SALE MAY BE MADE UNTIL THE OFFERING STATEMENT IS QUALIFIED BY THE SEC AND IS REGISTERED IN THIS STATE; AND

- E) NEITHER THE FEDERAL NOR THE STATE AUTHORITIES HAVE CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT OR



## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

ANY OTHER DOCUMENT PRESENTED TO YOU IN CONNECTION WITH THIS SOLICITATION OF INTEREST.

- 2) All communications with prospective investors made in reliance on this Section must cease after an application for registration of securities is filed in this State, and no sale may be made until at least twenty days after the last communication made in reliance on this Section.
- 3) A preliminary prospectus (or its equivalent) may only be used in connection with an offering for which indications of interest have been solicited under this Section provided that the offering is conducted by a registered dealer in this State.
- d) The Securities Director, or his or her designee, may waive in writing any provision of this Section, upon written application by the solicitor and due cause having been shown. Neither compliance by the attempted compliance with this Section, nor the absence of any objection or proceeding instituted or Order issued by the Secretary of State under Section 11 of the Act with respect to any solicitation of interest to purchase securities undertaken pursuant to this Section, shall be deemed to be a waiver of any provision of this Section or deemed to be a confirmation by the Securities Department of the availability of this Section.
- e) Issuers on whose behalf indications of interest are solicited under this Section may not make offers or sales in reliance upon subsection D, G, H, R or S of Section 4 of the Act until twelve months after the last communication with a solicitee made pursuant to this Section.

(Source: Added at 21 Ill. Reg. 7533, effective MAY 2, 1999.)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Illinois Swimming Pool and Bathing Beach Code
- 2) Code Citation: 77 Ill. Adm. Code 820
- 3) Section Numbers: Proposed Action:  
 820.10 Amended  
 820.250 Amended  
 820.400 New  
 820.500 Renumbered, Amended
- 4) Statutory Authority: Implementing and authorized by Section 13 of the Swimming Pool and Bathing Beach Act [210 ILCS 125/13].
- 5) Effective Date of Amendment: May 28, 1997
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which they expire: Not applicable
- 7) Date Filed in Agency's Principal Office: May 28, 1997
- 8) Reason for Emergency: The Department must adopt these emergency rules to provide immediate relief to homeowner's associations regulated by the Department's existing Code. On May 25, 1996, several amendments to the Illinois Swimming Pool and Bathing Beach Code were adopted that affected owners and operators of Illinois bathing beaches. Efforts to implement those amendments during the past year have produced complaints from some not-for-profit homeowner's associations that the new requirements are burdensome for smaller or less-used bathing beaches. The Department proposes to provide additional flexibility to not-for-profit homeowner's associations and must implement these changes before the 1997 swimming season. Otherwise, not-for-profit associations will incur unnecessary costs in implementing regulations that the Department proposes to change.
- 9) A Complete Description of the Subjects and Issues Involved: This rulemaking provides a mechanism for not-for-profit homeowner's associations that own and operate a beach that serves 50 or fewer swimmers per day to request a waiver from the Department's requirements for toilets and a first aid kit. The rulemaking specifies the conditions that must be met before a waiver will be granted. Beaches that have been closed due to unsatisfactory water quality would not be eligible for a waiver for the current swimming season or the subsequent season, unless the Department or a local health department determines that the cause of the unsatisfactory water quality was not in absence of toilet facilities at the beach. A reference in Section 820.250 to the water quality standards of Section 820.500 is updated to reflect the renumbering of Section 820.500 to 820.400. Additionally, definitions of "homeowner's association" and "infant" are added.



## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF EMERGENCY AMENDMENT

- 10) Are there any proposed amendments to this Part Pending? No
- 11) Statement of Statewide Policy Objectives: These rules will not require any new expenditures by units of local government.
- 12) Information and questions regarding these amendments shall be directed to:

Name: Gail M. DeVito  
Address: 535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
Telephone: 217/782-6187

The full text of the Emergency Amendments begins on the next page:

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF EMERGENCY AMENDMENT

TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER n: RECREATIONAL FACILITIES

PART 820  
ILLINOIS  
SWIMMING POOL AND BATHING BEACH CODE

## SUBPART A: GENERAL

Section	
820.10	Definitions
EMERGENCY	
820.20	Incorporated Materials

## SUBPART B: SWIMMING POOLS AND BATHING BEACHES

Section	
820.100	Permits
820.110	Water Supplies
820.120	Sewage Disposal
820.130	Food Service Sanitation

## SUBPART C: SWIMMING POOL DESIGN REQUIREMENTS

Section	
820.200	General Design Requirements
820.210	Swimming Pool Water Treatment System
820.220	Swimming Pool Bather Preparation Facilities
820.230	Wading Pools
820.240	Spray Pools
820.250	Water Slides
EMERGENCY	
820.260	New Equipment, Construction and Materials

## SUBPART D: SWIMMING POOL OPERATIONAL REQUIREMENTS

Section	
820.300	Personnel
820.310	Safety Equipment
820.320	Water Quality
820.330	Swimming Pool Closing
820.340	Operation and Maintenance
820.350	Operation Reports and Routine Sampling
820.360	Personal Regulations
820.370	Swimming Suits and Towels Furnished by Management
820.380	Wading Pools and Spray Pools
820.390	Refuse Disposal

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF EMERGENCY AMENDMENT

## SUBPART E: BATHING BEACH DESIGN AND OPERATION

Section	Minimum Sanitary Requirements for Bathing Beaches
820.400	Minimum Sanitary Requirements for Bathing Beaches
EMERGENCY	
820.500	Minimum Sanitary Requirements for Bathing Beaches (Renumbered)
EMERGENCY	

## APPENDIX A Illustrations

ILLUSTRATION A	Slope of Pool Bottom
ILLUSTRATION B	Pool Walls
ILLUSTRATION C	General Pool Diving Area Dimensions
ILLUSTRATION D	Pools with Diving Facilities in Excess of Three Meters in Height
ILLUSTRATION E	Slide Dimensions
ILLUSTRATION F	Slide Position
ILLUSTRATION G	Flow Meter Installation
ILLUSTRATION H	Skimmer Construction
ILLUSTRATION I	Installation of a Pressure Sand Filter System
ILLUSTRATION J	Installation of a Pressure Diatomaceous Earth Filter System
ILLUSTRATION K	Installation of a Vacuum Filter System
ILLUSTRATION L	Chlorine Injection into Return Line to Pool Using Pump Discharge Pressure
ILLUSTRATION M	Chlorine Injection into Return Line to Pool Using External Water Source Pressure
ILLUSTRATION N	Chlorine Injection into Return Line to Pool Using Booster Pump

## APPENDIX B Tables

TABLE A	Dimensions of Swimming Pools with Diving Facilities in Excess of Three Meters in Height
TABLE B	First Aid Kit Contents
TABLE C	Flows Carried by Inlets
TABLE D	Sizing Swimming Pool Chlorinators
TABLE E	Shower, Lavatory and Toilet Fixtures Required Per Bather Load

AUTHORITY: Implementing and authorized by the Swimming Pool and Bathing Beach Act [210 ILCS 125].

SOURCE: Adopted October 22, 1974; amended and effective February 9, 1976; amended at 4 Ill. Reg. 46, p. 1283, effective November 5, 1980; amended at 5 Ill. Reg. 9593, effective September 16, 1981; rules repealed and new rules adopted at 5 Ill. Reg. 13623, effective December 2, 1981; amended and codified at 8 Ill. Reg. 12366, effective July 5, 1984; amended at 11 Ill. Reg. 12308, effective July 15, 1987; amended at 14 Ill. Reg. 786, effective January 1, 1990; amended at 20 Ill. Reg. 6971, effective May 25, 1996; emergency amendment at 21 Ill. Reg. ~~7539~~ effective May 28, 1997, for a maximum of 150 days.

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## SUBPART A: GENERAL

Section 820.10 Definitions  
EMERGENCY

"Act" means the Swimming Pool and Bathing Beach Act [210 ILCS 125] (~~1995-Rev. Stat. ch. 111-1/27-pars. 1201-et-seq.~~).

"Approval" means compliance with the Act and this Part.

"Bather Load" means the maximum number of persons which may use the pool at one time without creating undue health or safety hazards. (See Section 820.200(b)).

"Community Water System" means a public water system which serves at least 15 service connections used by residents or regularly serves at least 25 residents for at least 60 days a year.

"Construction" means the placement or erection of structures or earthworks; land filling, excavation or non-agricultural alteration of the ground surface; installation of public utilities; channel modification; storage of materials or any other activity undertaken to modify the existing physical features of a flood plain with respect to the storage and conveyance of flood waters.

"Diving Pool" means a pool designed and intended for use exclusively by divers.

"Office Division of Water Resources" means the Illinois Department of Natural Resources ~~Transportation, Office Division of Water Resources, 3215 Executive Park Dr. Department--of--Transportation--Administration Building--Room-308, Springfield, IL 62703 111-62764.~~

"Flume" means an inclined channel which conveys the water and the slide participant from the top of the slide to the plunge pool.

"Homeowner's Association" is a not-for-profit corporation comprised of members who have common ownership interest in property owned or operated by the association for the benefit of all the members.

"Infant" means a minor who is not toilet-trained.

"Inlet" means an opening or fitting through which filtered water enters the pool.

"Main Drain" means the outlet or outlets in the floor of the pool.

"Make-up Water" means the water added to a pool to replace that which

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is lost.

"National Electrical Code" means a code for the practical safe-guarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, or radio signalling, prepared by the National Fire Protection Association (NFPA), 60 Battery March St., Boston, Mass. 02110. (1984 Edition)

"National Sanitation Foundation (N.S.F.)" means a non-profit, non-commercial organization which wholly owns the National Sanitation Foundation Testing Laboratory, 2355 West Stadium Boulevard, P. O. Box 1468, Ann Arbor, Michigan 48106.

"Non-Community Water System" means a public water system that is not a community water system, that has at least 15 service connections used by non-residents, or regularly serves 25 or more non-resident individuals daily for at least 60 days a year.

"Perimeter Overflow Systems" means a channel at the normal water level normally extending completely around the pool water surface. Also known as an overflow gutter.

"Permit" means a certificate issued by the Department allowing the construction of a new public swimming pool or public bathing beach under the provisions of the Act.

"Plumbing" shall have the meaning set forth in the Illinois State Plumbing Code (77 Ill. Adm. Code 890).

"Plunge Pool" means a pool or artificial body of water into which a person exits from a waterslide.

"Pool Depth" means the distance between the pool floor and the perimeter overflow system lip or midpoint on the skimmer throat weir level.

"Public Water System" means a system for the provision to the public of piped water for human consumption, if the system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days per year. The term Public Water System includes any collection, treatment, storage and distribution facilities under control of the operator of such system and used primarily in connection with such system and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

"Recirculation Piping" means the piping from the pool to the filters and back to the pool, through which the pool water circulates.

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"Sewage" means any liquid waste containing animal or vegetable matter in suspension solution, and includes liquids containing chemicals in solution.

"Shallow Pool" means a pool, other than a wading pool or spray pool as defined in these regulations, in which the water depth does not exceed five feet at any point.

"Skimmer" means a mechanical device connected to the recirculation piping which is used to skim the pool surface.

"Special Flood Hazard Area" means an area having special flood hazards and shown as such on a Regulatory Flood Plan Map (published and available from the Office Division of Water Resources) or Flood Insurance Rate Map or Flood Hazard Boundary Map published by the Federal Insurance Administration of the Federal Emergency Management Agency.

"Spray Pool" means an artificially constructed area over which water is sprayed but is not allowed to pool.

"State Flood Plain Regulations" means the rules set forth for the Regulation of Construction within Flood Plains (92 Ill. Adm. Code 706), issued by the Office Division of Water Resources.

"Swimming Pool Manager/Operator" means the person responsible for the actual daily operation, or for the supervision of the operation, of a swimming pool.

"Transition Point" means the point of the floor of the pool where an abrupt change in slope occurs between the shallow and deep areas of the pool.

"Turnover" means the time required to recirculate the water volume of the pool through the filtration system.

"Therapy Pool" means a pool intended only for medical treatment or muscle relaxation and not intended for swimming or instruction in swimming.

"Wading Pool" means a pool intended only for small children. It is not used for swimming nor instruction in swimming. The maximum depth is less than 30 inches.

"Water Slide" means a slide which consists of one or more flumes, a plunge pool, a pump reservoir, and water treatment facilities, where water is pumped to the top of the slide and allowed to flow down the flume to the plunge pool.



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"Wave Pool" means a swimming pool designed for the purpose of producing wave action in the water.

(Source: Emergency amendment at 21 Ill. Reg. **7536**, effective May 28, 1997, for a maximum of 150 days)

## SUBPART C: SWIMMING POOL DESIGN REQUIREMENTS

## Section 820.250 Water Slides

EMERGENCY

a) General. Water slides are subject to the rules stated in this Subpart when the water slide:

- 1) Is located in a recreational area regulated licensed under authority of the Campground Licensing and Recreational Area Act [210 ILCS 95]; Recreational Area Licensing Act ~~(411 Revr-Stat-1987-ch--111-1/27-pars--761-et-seq)-or~~
- 2) Exits into an existing licensed swimming pool, or bathing beach; or

3) Exits into a pool designed and intended for general purpose swimming; or

4) Is interconnected with a general purpose swimming pool, either directly, or through the recirculation or water treatment equipment for the swimming pool.

b) Turnover Rate. The water turnover rate shall be 2 hours or less, except where a swimming pool is used as a plunge pool. In this case the turnover rate shall be in accordance with Section 820.210(h).

c) Walkways. A four foot minimum width, non-slip, paved walkway or steps shall be provided between the plunge pool deck and the top of the flume(s).

d) Decks.

1) The deck around the plunge pool shall be at least four feet wide, except at the side where the flume terminates. The plunge pool decks shall slope away from the plunge pool at least two inches in ten feet.

2) Deck drains shall be provided in accordance with Section 820.200(1)(6).

e) Steps. Steps leading into the pool shall comply with Section 820.200(m)(3) and (4).

f) Enclosure. The surge pool shall be enclosed in accordance with Section 820.200(a) to prevent access by individuals in the slide area. Flumes.

1) Position. A flume shall be perpendicular to the plunge pool wall for a distance of at least 10 feet from the exit end of the flume. The last 10 feet of the flume shall have a slope which is not steeper than 1 in 10.

2) Clearances. The distance between the side of a flume terminus and a plunge pool side wall shall be at least five feet unless

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the flume terminus is designed to move sliders away from the wall and the distance to an adjacent flume is at least 8 feet. The distance between sides of adjacent flume terminuses shall be at least five feet. The distance between a flume terminus and the opposite side of the plunge pool shall be at least 25 feet. Steps shall not infringe on this area.

3) Elevation. A flume shall terminate between a depth of six inches below the plunge pool operating water surface level and two inches above the water surface level unless the slide is provided with an exit flume designed by the manufacturer for safe exit at lesser depths.

4) All curves, turns, and tunnels on the path of a flume shall be designed and constructed in accordance with the manufacturer's instructions.

5) The construction, dimensions and the mechanical attachment of the flume components shall be such that the surface of the flume is smooth and continuous for its entire length.

A) Flumes and pools shall be watertight and their surfaces shall be chemically inert, nontoxic, smooth, and easy to clean.

B) Each flume shall have a distinctive line or marking to indicate the starting zone in which only one rider at a time is permitted. This line shall be in accordance with the manufacturer's specifications or 30", whichever is the longer distance. A sign shall be posted at the top of the long distance. A sign shall be posted at the top of the slide warning all sliders not to proceed down the slide until the slider in front of him has passed this line.

h) Plunge Pools

1) Depths. The plunge pool operating water depth at the end of a flume shall be between 2 1/2 and 3 1/2 feet unless the slide is provided with an exit flume designed by the manufacturer for safe exit at a lesser depth. This depth shall be maintained in front of the flume for a distance of at least ten feet, from which the plunge pool floor may have a constant slope upward to a minimum water depth of two feet. This slope shall not be steeper than 1 vertical in 12 horizontal. The bottom shall slope to the main drain at least 2" in 10 feet.

2) Surge Pool. A surge storage area shall be provided which will contain the water used for pumping onto the slide during periods when the slide is not in use, except where the plunge pool is a swimming pool where the water elevation will not be lowered more than 1 inch when the flume pumps are in operation.

3) Swimming Pools. Where a swimming pool is used as a plunge pool, the area where the slide exits shall be roped off from the area of the pool used for swimming and bathing. Distances to any roping shall comply with the clearances specified in Section 820.250(g)(2).

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i) Water Treatment. Water from the swimming pool or plunge pool shall be treated and filtered in accordance with Section 820.210. Water shall meet the quality standards of Section 820.320. Where sliders exit into a licensed bathing beach or a bathing beach located in a licensed recreational area or youth camp, the water shall meet the water quality standards of Section 820.400 500.

j) Bathing Preparation Areas. A dressing area and toilet facilities shall be provided for each sex.

k) Supervision.

1) At least one attendant shall be on duty at all times when the slide is in operation in order to control the traffic of individuals using the slide. Attendants shall ensure that the slide is used in a safe and responsible manner. This attendant shall be qualified in both first-aid and life-saving techniques through Red Cross, YMCA, or equivalent training. One attendant at the plunge pool shall not be assigned other duties that would distract his attention from proper observation of persons in the pool area or that would prevent immediate assistance to persons in distress.

2) When a continuous line of 5 or more people is waiting to use the slide, one or more attendants shall be on duty at the top and bottom of the slide to assist users, control timing of each person on the slide and supervise all visible portions of the slide.

3) When the plunge pool is not visible from the top of the slide, a means of communication shall be provided between the attendants at the top and bottom.

1) Grates. The intake velocity for water pumped from any plunge pool to the slide shall not exceed 1 1/2 feet per second and the intake opening shall be protected by a grating. The maximum width of grating openings shall be 1/2 one-half inch.

m) During the operating season the operator shall:

1) Make a daily inspection of each flume and check for and eliminate any of the following conditions:

- A) loose railings
- B) leaking seals at butt joints
- C) rough patching at cracks or joints
- D) loose guards at turns
- E) unusual movement of flume bed when walked on
- F) growth of algae
- G) sharp edges and rough surfaces on flume and safety rails
- H) projection of any structure or plant growth near or into the flume.

2) Inspect areas weekly where chemicals are stored or dispensed checking for proper ventilation, lighting, cleanliness, proper labeling, and storage of chemicals.

3) Not use any mat which is not pliable and in good condition.

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(Source: Emergency amendment at 21 Ill. Reg. 1739, effective May 28, 1997, for a maximum of 150 days)

## SUBPART E: BATHING BEACH DESIGN AND OPERATION

**Section 820.400 Minimum Sanitary Requirements for Bathing Beaches**  
**EMERGENCY**

a) Initial Sanitary Survey. Prior to the issuance of a construction permit, the Department shall conduct a sanitary survey of the proposed beach. This survey shall include an evaluation of the physical, chemical and bacteriological characteristics of the bathing beach area, as well as any potential or actual sources of contamination in the watershed which could affect the beach. The presence of any such sources of contamination shall constitute grounds to deny the permit.

1) Physical Quality. The following characteristics shall not be present in the beach area or watershed:

A) Sludge deposits, solid refuse, floating waste solids, oils, grease or scum.

B) Hazardous substances being discharged into bathing beach water or watershed.

2) Bacteriological Quality. The bacteriological quality of water at bathing beaches shall comply with the following criteria:

A) At least two samples shall be collected from the proposed beach area and additional samples shall be collected from any tributaries as they enter the lake. Fecal coliform bacteria counts of 200 colonies/100 ml or an E. coli density of 126 colonies/100 ml in one or more samples shall require additional investigation, survey, special analysis and correction of any problems determined to be causing the high counts. Subsequent evaluation and satisfactory bacteriological results must be obtained before a construction permit will be issued.

B) There shall be no sanitary or combined sewer discharges or other raw or partially treated sewage discharges to the bathing beach area or immediate watershed.

3) Chemical Quality. There shall be no discharges of chemical substances capable of creating toxic reactions, or irritations to the skin or mucous membranes of a bather.

b) Design

1) Bather Load. The bather load shall be established at all beaches constructed after May 28, 1997 June-17-1996, by the registered engineer or architect who designed the project.

2) Beach and Swimming Areas. The wading areas at all beaches shall be separated from swimming and diving areas by lines securely anchored and buoyed. The slope of the bottom of any portion of the beach having a water depth of less than 5 feet shall not exceed 1 foot vertical for 12 feet horizontal. The slope shall

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be uniform. The bottom of the wading and swimming areas shall consist of sand or gravel. If disinfection or filtration is provided, it must comply with the requirements in Section 820.210.

## 3) Diving Facilities-

- A) Where diving facilities are provided, the following minimum water depth must be maintained for a distance of at least 12 feet beyond the end and sides of the platform or board:

Height of Platform or Board Above Water	Minimum Water Depth
0 - 1/2 Meter	9.5 feet
1 Meter	10 feet
3 Meters	12 feet

- B) Handrails, guardrails and steps shall comply with the requirements of Section 820.200(o)(1).

## 4) Safety Boundaries. The wading area and swimming areas at beaches where the water is less than 5 feet deep shall be separated from swimming and diving areas by a line times securely anchored and buoyed at the 5 foot depth. The limits of the swimming area shall be marked by buoys, poles, or other markers located not over 100 feet apart and visible to bathers from a distance of at least 100 feet. Within such limits of safe swimming, there shall be no boating, underwater obstructions, or other hazards which may be dangerous or cause injury to swimmers. Signs shall be provided on the beach describing such markers and stating that they indicate the limits of the swimming area.

- 5) Water Slides and Sliding Boards. Water slides shall comply with Section 820.250 and sliding boards shall comply with Section 820.200(p).

- c) Electrical Wiring. All electrical wiring shall be in accordance with the National Electrical Code in effect at the time of construction.

## d) Bathhouses/Toilets

- 1) Requirements for Beaches Established After May 28, 1997 (New) For all new beaches established after May 28, 1997 June 17, 1996, a bathhouse shall be provided within 300 feet of the shoreline unless the beach is intended to serve only a residential development located around the lake, and a maximum of 50 or fewer persons are anticipated to be present per day at any time. In such cases, at least one toilet or privy shall be provided for each sex within 300 feet of the shoreline. 2) Bathhouses shall be designed in accordance with the requirements of Section 820.220(b) and (c) and (d) and (f). The bather load to be used to determine the required numbers of fixtures shall be provided by the registered engineer or architect who designed the project.

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- 23) Requirements for Beaches Established Before May 28, 1997 (Existing)

All existing beaches established before June 17, 1996 shall comply with the bathhouse/toilet facility requirements in effect at the time they were constructed, but as a minimum shall provide at least one toilet or privy must be provided when the number of bathers present per day is 50 or fewer. Two toilets or privies must be provided when the number of bathers present per day is 51 to 100. An additional toilet or privy must be provided for each 100 additional bathers. The maximum number of toilets or privies required is ten. The required toilets or privies must be located for each sex within 300 feet of the shoreline.

## e) Bathing Beach Operation

- 1) Samples of bathing beach water shall be taken by the applicant or manager/operator and submitted to the Department at such times and points as designated by the Department within the area utilized for bathing or swimming purposes. Additional samples shall also be obtained at any critical point subject to possible pollution as determined by a sanitary survey.

- 2) During operation, the following bacteriological water quality results shall warrant the actions described:

A) A fecal coliform count of 500 colonies/100 ml or an E. coli count of 235 colonies/100 ml in each of two samples collected on the same day shall require closing the beach. The beach shall not be reopened until two additional samples collected on the same day are both less than 500 fecal coliform/100 ml or 235 E. coli/100 ml.

B) A fecal coliform count of 500 colonies/100 ml or an E. coli count of 235 colonies/100 ml in any single sample of a two sample set shall require the submission of two additional samples to be collected on the same day within 24 hours after notification by the Department. If either of the two follow-up samples exceeds a fecal coliform count of 500 colonies/100 ml or an E. coli count of 235 colonies/100 ml, the beach shall be closed and not reopened until two additional samples collected on the same day are both less than 500 fecal coliform/100 ml or 235 E. coli/100 ml.

- 3) If a sanitary survey determines that there are discharges of sanitary or combined sewers or of other raw or partially treated sewage to the beach or immediate watershed, the bathing beach shall be closed by written order of the Department.

- 4) Where schistosoma dermatitis (swimmers' itch) is known to exist, appropriate measures shall be taken to protect the bathers. Such measures may include posting of warning signs, chemical treatment of the beach or closing the beach. Any chemical treatment shall comply with all federal, State and local requirements, including prior approval of the Department or its agent(s).

- 5) The beach manager/operator shall monitor the water depth around



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diving facilities and prohibit use of any such facilities which do not comply with the minimum water depth requirements of subsection (b)(3) of this Section ~~Section-020-500(b)(3)~~.

6) For all beaches established after May 28, 1997 June-17-1996, the beach manager/operator shall enforce the bather load established in subsection ~~Section--020-500(b)(1)~~ of this Section.

Additionally, for all beaches the bather density in water less than 5 feet deep shall not exceed one bather per 25 square feet.

7) No swimming shall be permitted after sunset or when lightning is present.

8) No pets shall be permitted in the beach area.

9) Feeding of wildlife or other actions which encourage their presence is prohibited.

10) The beach area shall be kept free of any debris including wastes from waterfowl or other wildlife.

11) Leakproof, covered refuse containers shall be provided at convenient locations in the beach area. They shall be emptied at least twice per week and more often if necessary to avoid odors and insect breeding.

f) Lifeguards. Lifeguards shall be provided at bathing beaches which allow bathers 16 years of age or under to enter the beach without a responsible person 17 years of age or older present, except when the parent or guardian of each person under 17 years of age submits written permission to the beach owner or manager/operator allowing such individuals under 17 years of age to enter the beach or swim without a lifeguard or responsible person 17 years of age or older present. Lifeguards shall comply with the requirements of Section 820.300(b).

g) Safety Requirements

1) A U.S. Coast Guard approved ring buoy with at least 25 feet of rope shall be available at the beach when bathers are present.

2) A first aid kit containing the items described in Appendix B shall be available at the beach when bathers are present.

3) A telephone shall be available within 500 feet of the beach when bathers are present. The numbers of the local police, fire department, rescue squad and ambulance, and/or 911 numbers shall be posted near the telephone. A portable phone may be used to meet this requirement. The phone may be located in a residence within 500 feet of the beach provided it will be accessible at all times the beach is in operation. Unless located in the immediate beach area, a sign shall be posted indicating the location of the phone.

4) All drownings and injuries or illnesses requiring hospitalization shall be reported to the Department within 24 hours and the Department's "Drowning and Injury Report" form shall be completed and submitted within 7 days.

h) Waiver

1) A homeowner's association may apply to the Department for a

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waiver of the requirements of subsections (d)(2) and (g)(2) of this Section by making a written request signed by an officer of the association. The request must contain the following information:

A) The requirements from which the homeowner's association seeks a waiver;

B) Certification that a majority of the members of the homeowner's association agreed to be exempt from the requirements requested;

C) Certification that the beach normally serves 50 or fewer bathers per day; and

D) Certification that the use of the beach is intended only for members of the homeowner's association and their guests.

2) Upon submission of the waiver application, a waiver shall be granted only if the following conditions are met:

A) All water samples were submitted during the previous and current operating seasons as required by subsection (e)(1) of this Section; and

B) The closure standards set forth in subsection (e)(2) of this Section were not exceeded during the previous or current operating seasons or, if the closure standards were exceeded, the Department or local health department determined that the cause of the unsatisfactory water quality was not an absence of toilet facilities at the beach.

3) A waiver shall not be granted if the beach has been closed during the current or previous operating seasons due to a violation of the closure standards set forth in subsection (e)(2) of this Section, unless the Department or local health department determines that the cause of the unsatisfactory water quality was not an absence of toilet facilities.

4) A waiver granted pursuant to this Section shall expire immediately during the current operating season if the beach is closed due to a violation of the standards set forth in subsection (e)(2) of this Section, unless the Department or local health department determines that the cause of the unsatisfactory water quality was not an absence of toilet facilities at the beach. When a waiver expires, a toilet or privy shall be provided before the beach is allowed to reopen.

5) A waiver granted pursuant to this Section shall not apply on any day when the number of bathers is greater than 50.

i) The following rules governing the use of the beach shall be displayed on placards provided by the Department at the entrance to bathhouses or other conspicuous locations and shall be enforced by the beach manager/operator.

## REGULATIONS - BEACHES

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The following rules govern the use of the beach and shall be enforced by the beach manager/operator.

- 1) The beach water is not suitable for drinking. Avoid swallowing beach water.
- 2) Admission to the beach may be refused to all persons having any contagious disease, infectious conditions such as colds, fever, ringworm, foot infections, skin lesions, carbuncles, boils, diarrhea, vomiting, inflamed eyes, ear discharges, or any other condition which has the appearance of being infectious. Persons with excessive sunburn, abrasions which have not healed, corn plasters, bunion pads, adhesive tape, rubber bandages, or other bandages of any kind may also be refused admittance. A person under the influence of alcohol or exhibiting erratic behavior shall not be permitted in the beach area.
- 3) Littering is prohibited. In addition, no food, drink, gum or tobacco is allowed in the water. Glass containers are prohibited throughout the beach area.
- 4) All infants shall wear tight fitting rubber or plastic pants.
- 5) No one should swim alone.
- 6) Persons under the age of 17 must be accompanied by a responsible person 17 years of age or older unless a lifeguard is present.
- 7) Personal conduct within the beach must be such that safety is not jeopardized.
- 8) Diving in shallow water is not permitted.
- 9) Caution shall be exercised in the use of diving facilities.

(Source: Renumbered from Section 820.500 and amended by emergency amendment at 21 Ill. Reg. ~~7533~~ 7536, effective May 28, 1997, for a maximum of 150 days)

**Section 820.500 Minimum Sanitary Requirements for Bathing Beaches (Renumbered)**  
**EMERGENCY**

(Source: Section 820.500 renumbered to Section 820.400 by emergency amendment at 21 Ill. Reg. ~~7533~~ 7536, effective May 28, 1997, for a maximum of 150 days)

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF WITHDRAWAL OF PROPOSED RULES

- 1) Heading of the Part: Approval of Statements for Generally Available Terms

- 2) Code Citation: 83 Ill. Adm. Code 764

- 3) Section Numbers:

764.10	Proposed Action:	Withdrawal
764.20		Withdrawal
764.30		Withdrawal
764.40		Withdrawal
764.100		Withdrawal
764.110		Withdrawal
764.120		Withdrawal
764.130		Withdrawal
764.140		Withdrawal
764.150		Withdrawal
764.200		Withdrawal
764.210		Withdrawal
764.230		Withdrawal
764.300		Withdrawal
764.320		Withdrawal
764.330		Withdrawal
764.340		Withdrawal
764.350		Withdrawal
764.360		Withdrawal
764.370		Withdrawal
764.380		Withdrawal
764.400		Withdrawal
764.410		Withdrawal
764.420		Withdrawal
764.430		Withdrawal
764.440		Withdrawal
764.450		Withdrawal
764.460		Withdrawal
764.470		Withdrawal

- 4) Date Notice of Proposed Rules Published in the Illinois Register:  
June 28, 1996, at 20 Ill. Reg. 8395

- 5) Reason for the Withdrawal: These rules would have only applied to one case in Illinois, and with the delay in the adoption of these rules due to the prohibition on filing, the case has progressed to the point where these rules are no longer necessary. Withdrawal is the appropriate action.

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PUBLIC INFORMATION

NOTICE OF FINE IMPOSED UNDER  
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(g) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 635/4-5 (g) (1994), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has issued a fine of 2,500.00 dollars against Midwest Express Mortgage Company, Glenview, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder.

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

## LISTING OF DERIVED WATER QUALITY CRITERIA

Pursuant to 35 Ill. Adm. Code 302.Subpart F, the following water quality criteria have been derived as listed. This listing includes only the waterbodies for which water quality criteria have been used during the period February 1, 1997 through April 30, 1997.

A cumulative listing of criteria as of July 31, 1993 was published in 17 Ill. Reg. 18904, October 29, 1993. Listings of waterbodies for which water quality criteria were used during subsequent three month periods were published in 18 Ill. Reg. 318, January 7, 1994; 18 Ill. Reg. 4457, March 18, 1994; 18 Ill. Reg. 8734, June 10, 1994; 18 Ill. Reg. 14166, September 9, 1994; 18 Ill. Reg. 17770, December 9, 1994; 19 Ill. Reg. 3563, March 17, 1995; 19 Ill. Reg. 7270, May 26, 1995; 19 Ill. Reg. 12527, September 1, 1995; 20 Ill. Reg. 649, January 5, 1996; 20 Ill. Reg. 4829, March 22, 1996; 20 Ill. Reg. 7549, May 30, 1996; 20 Ill. Reg. 12278, September 6, 1996; 20 Ill. Reg. 15619, December 6, 1996; and 21 Ill. Reg. 3761, March 21, 1997.

## Chemical: Acenaphthene

CAS #83-32-9

Acute criterion: 124 ug/l

Chronic criterion: 9.9 ug/l

Date criteria derived: November 14, 1991

Applicable waterbodies:

Not used during this period.

## Chemical: Acetone

CAS #67-64-1

Acute criterion: 1,530 mg/l

Chronic criterion: 122 mg/l

Date criteria derived: May 25, 1993

Applicable waterbodies:

Not used during this period.

## Chemical: Acetonitrile

CAS #75-05-8

Acute criterion: 375 mg/l

Chronic criterion: 30 mg/l

Date criteria derived: December 7, 1993

Applicable waterbodies:

Not used during this period.

## Chemical: Acrylonitrile

CAS #107-13-4

Acute criterion: 910 ug/l

Chronic criterion: 73 ug/l

Human health criterion (HNC): 0.21 ug/l

Date criteria derived: November 13, 1991

Applicable waterbodies:

Not used during this period.

## Chemical: Anthracene

CAS #120-12-7



## ENVIRONMENTAL PROTECTION AGENCY

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## LISTING OF DERIVED WATER QUALITY CRITERIA

Human health criterion (HTC): 35 mg/l  
Date criteria derived: August 18, 1993  
Applicable waterbodies:

Not used during this period.

Chemical: Benzene  
Acute criterion: 5,200 ug/l  
Human health criterion (HNC): 21 ug/l  
Date criteria derived: August 15, 1990  
Applicable waterbodies:

CAS #71-43-2  
Chronic criterion: 416 ug/l

Not used during this period.

Chemical: Benzo(a)anthracene  
Human health criterion (HNC): 0.01 ug/l  
Date criteria derived: August 10, 1993  
Applicable waterbodies:

CAS #56-55-3

Not used during this period.

Chemical: Benzo(a)pyrene  
Human health criterion (HNC): 0.01 ug/l  
Date criteria derived: August 10, 1993  
Applicable waterbodies:

CAS #50-32-8

Not used during this period.

Chemical: Benzo(b)fluoranthene  
Human health criterion (HNC): 0.01 ug/l  
Date criteria derived: August 10, 1993  
Applicable waterbodies:

CAS # 205-99-2

Not used during this period.

Chemical: Benzo(k)fluoranthene  
Human health criterion (HNC): 0.01 ug/l  
Date criteria derived: August 10, 1993  
Applicable waterbodies:

CAS #207-08-9

Not used during this period.

Chemical: Carbon tetrachloride  
Acute criterion: 3,500 ug/l  
Human health criterion (HNC): 1.4 ug/l  
Date criteria derived: June 18, 1993

CAS #56-23-5  
Chronic criterion: 280 ug/l

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

## LISTING OF DERIVED WATER QUALITY CRITERIA

Applicable waterbodies:

Not used during this period.

Chemical: Chlorobenzene  
Acute criterion: 993 ug/l  
Date criteria derived: December 11, 1991  
Applicable waterbodies:

CAS #108-90-7  
Chronic criterion: 79 ug/l

Not used during this period.

Chemical: Chloroform  
Acute criterion: 1,870 ug/l  
Human health criterion (HNC): 130 ug/l  
Date criteria derived: October 26, 1992  
Applicable waterbodies:

CAS #67-66-3  
Chronic criterion: 150 ug/l

Not used during this period.

Chemical: Chrysene  
Human health criterion (HNC): 0.01 ug/l  
Date criteria derived: August 10, 1993  
Applicable waterbodies:

CAS #218-01-9

Not used during this period.

Chemical: 1,2-dichlorobenzene  
Acute criterion: 210 ug/l  
Date criteria derived: December 1, 1993  
Applicable waterbodies:

CAS #95-50-1  
Chronic criterion: 16.8 ug/l

Not used during this period.

Chemical: 1,3-dichlorobenzene  
Acute criterion: 500 ug/l  
Date criteria derived: July 31, 1991  
Applicable waterbodies:

CAS #541-73-1  
Chronic criterion: 196 ug/l

Not used during this period.

Chemical: 1,2-dichloroethane  
Acute criterion: 24,900 ug/l  
Human health criterion (HNC): 23 ug/l  
Date criteria derived: March 19, 1992  
Applicable waterbodies:

CAS #107-06-2  
Chronic criterion: 4,540 ug/l

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

## LISTING OF DERIVED WATER QUALITY CRITERIA

Not used during this period.

Chemical: 1,1-dichloroethylene

Acute criterion: 3,030 ug/l

Human health criterion (HNC): 0.95 ug/l

Date criteria derived: March 20, 1992

Applicable waterbodies:

Not used during this period.

Chemical: 2,4-dichlorophenol

Acute criterion: 631 ug/l

Date criteria derived: November 14, 1991

Applicable waterbodies:

Not used during this period.

Chemical: 1,2-dichloropropane

Acute criterion: 4,800 ug/l

Date criteria derived: December 7, 1993

Applicable waterbodies:

Not used during this period.

Chemical: 1,3-dichloropropylene

Acute criterion: 99 ug/l

Date criteria derived: November 13, 1991

Applicable waterbodies:

Not used during this period.

Chemical: 4,6-dinitro-o-cresol = 2-methyl-4,6-dinitrophenol

CAS #534-52-1

Chronic criterion: 2.3 ug/l

Acute criterion: 28.8 ug/l

Date criteria derived: November 14, 1991

Applicable waterbodies:

Not used during this period.

Chemical: 2,4-dinitrophenol

Acute criterion: 85.3 ug/l

Date criteria derived: December 1, 1993

Applicable waterbodies:

Not used during this period.

## ENVIRONMENTAL PROTECTION AGENCY

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## LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: 2,6-dinitrotoluene

CAS #606-20-2

Acute criterion: 1,910 ug/l

Chronic criterion: 153 ug/l

Date criteria derived: February 14, 1992

Applicable waterbodies:

Not used during this period.

Chemical: Diquat

CAS #85-00-7

Acute criterion: 1,330 ug/l

Chronic criterion: 106 ug/l

Date criteria derived: January 30, 1996

Applicable waterbodies:

Not used during this period.

Chemical: Ethylbenzene

CAS #100-41-4

Acute criterion: 216 ug/l

Chronic criterion: 17.2 ug/l

Date criteria derived: August 15, 1990, revised May 17, 1991

Applicable waterbodies:

07120007-006/off unnamed tributary to Fox River

Chemical: Fluoranthene

CAS #206-44-0

Human health criterion (HTC): 120 ug/l

Date criteria derived: August 10, 1993

Applicable waterbodies:

Not used during this period.

Chemical: Hexachlorobenzene

CAS #118-74-1

Human health criterion (HNC): 0.00025 ug/l

Date criteria derived: November 15, 1991

Applicable waterbodies:

Not used during this period.

Chemical: Hexachlorobutadiene

CAS #87-68-3

Acute criterion: 34.5 ug/l

Chronic criterion: 2.76 ug/l

Date criteria derived: March 23, 1992

Applicable waterbodies:

Not used during this period.

Chemical: Hexachloroethane

CAS #67-72-1

Acute criterion: 381 ug/l

Chronic criterion: 30.5 ug/l

Human health criterion (HNC): 2.9 ug/l

Date criteria derived: November 15, 1991

## ENVIRONMENTAL PROTECTION AGENCY

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## LISTING OF DERIVED WATER QUALITY CRITERIA

Applicable waterbodies:

Not used during this period.

Chemical: Isobutyl alcohol = 2-methyl-1-propanol

CAS #78-83-1

Acute criterion: 434 mg/l Chronic criterion: 34.8 mg/l

Date criteria derived: December 1, 1993

Applicable waterbodies:

Not used during this period.

Chemical: Methylene chloride

Acute criterion: 17,200 ug/l

Human health criterion (HNC): 340 ug/l

Date criteria derived: January 21, 1992

Applicable waterbodies:

Not used during this period.

Chemical: Methyleneketone

Acute criterion: 322,000 ug/l

Date criteria derived: July 1, 1992

Applicable waterbodies:

Not used during this period.

Chemical: 4-methyl-2-pentanone

Acute criterion: 46 mg/l

Date criteria derived: January 13, 1992

Applicable waterbodies:

Not used during this period.

Chemical: Naphthalene

Acute criterion: 670 ug/l

Date criteria derived: November 7, 1991

Applicable waterbodies:

07130003-001/off unnamed tributary to Illinois River

Chemical: 4-nitroaniline

Acute criterion: 1.5 mg/l

Date criteria derived: May 5, 1996

Applicable waterbodies:

CAS #100-01-6

Chronic criterion: 0.12 mg/l

## ENVIRONMENTAL PROTECTION AGENCY

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## LISTING OF DERIVED WATER QUALITY CRITERIA

07140101-006/on Mississippi River

Chemical: Nitrobenzene

Acute criterion: 15.4 mg/l

Human health criterion (HTC): 0.52 mg/l

Date criteria derived: February 14, 1992

Applicable waterbodies:

Not used during this period.

CAS #98-95-3

Chronic criterion: 4.67 mg/l

Chemical: Pentachlorophenol

Acute criterion: 20 ug/l

Date criteria derived: national criterion, September 1986

Applicable waterbodies:

Not used during this period.

Chemical: Phenanthrene

Acute criterion: 46 ug/l

Date criteria derived: October 26, 1992

Applicable waterbodies:

Not used during this period.

CAS #85-01-8

Chronic criterion: 3.7 ug/l

Chemical: Pyrene

Human health criterion (HTC): 3,500 ug/l

Date criteria derived: December 22, 1992

Applicable waterbodies:

Not used during this period.

Chemical: Tetrachloroethylene

Acute criterion: 1,220 ug/l

Date criteria derived: March 23, 1992

Applicable waterbodies:

Not used during this period.

CAS #127-18-4

Chronic criterion: 152 ug/l

Chemical: Tetrahydrofuran

Acute criterion: 216,000 ug/l

Date criteria derived: March 16, 1992

Applicable waterbodies:

Not used during this period.

CAS #109-99-9

Chronic criterion: 17,300 ug/l

Chemical: Toluene

CAS #108-88-3



## ENVIRONMENTAL PROTECTION AGENCY

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## LISTING OF DERIVED WATER QUALITY CRITERIA

Acute criterion: 8,080 ug/l      Chronic criterion: 646 ug/l  
Date criteria derived: August 16, 1990, revised May 17, 1991 and  
January 26, 1993  
Applicable waterbodies:

07120007-006/off    unnamed tributary to Fox River

Chemical: 1,2,4-trichlorobenzene      CAS #120-82-1  
Acute criterion: 353 ug/l      Chronic criterion: 69.2 ug/l  
Date criteria derived: December 14, 1993  
Applicable waterbodies:

Not used during this period.

Chemical: 1,1,1-trichloroethane      CAS #71-55-6  
Acute criterion: 4,910 ug/l      Chronic criterion: 393 ug/l  
Date criteria derived: October 26, 1992  
Applicable waterbodies:

Not used during this period.

Chemical: 1,1,2-trichloroethane      CAS #79-00-5  
Acute criterion: 19,000 ug/l      Chronic criterion: 3,540 ug/l  
Human health criterion (HNC): 12 ug/l  
Date criteria derived: December 13, 1993  
Applicable waterbodies:

Not used during this period.

Chemical: Trichloroethylene      CAS #79-01-6  
Acute criterion: 11,700 ug/l      Chronic criterion: 940 ug/l  
Date criteria derived: October 23, 1992  
Applicable waterbodies:

Not used during this period.

Chemical: Xylenes      CAS # 1330-20-7  
Acute criterion: 1,500 ug/l      Chronic criterion: 117 ug/l  
Date criteria derived: August 23, 1990  
Applicable waterbodies:

07120007-006/off    unnamed tributary to Fox River

For additional information concerning these criteria or the derivation process  
used in generating them, please contact:

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

## LISTING OF DERIVED WATER QUALITY CRITERIA

Bob Mosher  
Illinois Environmental Protection Agency  
Division of Water Pollution Control  
2200 Churchill Road  
Post Office Box 19276  
Springfield, Illinois 62794-9276  
217/782-3362

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1

2. Summary of information:

Index of Department of Revenue sales tax Private Letter Rulings and General Information Letters issued for the First Quarter of 1997. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 86 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the *Taxpayers' Bill of Rights Act*. (See 86 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Agents	Manufacturing Machinery
Agricultural Producers and Products	& Equipment
Assessments	Medical Appliances
Automobile Renting Tax	Miscellaneous
Bingo	Motor Fuel Tax
Books and Records	Motor Vehicles
Bulk Sales	Newsprint & Ink
C.O.A.D.	Nexus
Certificate of Registration	Nonprofit Institutions
Charitable Games	Occasional Sale
Cigarette Tax	Oil Field Equipment
Claims for Credit	Penalties
Coal Fueled Devices	Pollution Control Facilities
Coal Mining Equipment	Prepaid Sales Tax
Coins & Precious Metals	Products of Photoprocessing
	Property Tax

## DEPARTMENT OF REVENUE

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Computer Software	Public Utility Taxes
Construction Contractors	Real Estate Transfer Tax
Cooperative Associations	Repairs
Delivery Charges	Replacement Vehicle Tax
Distillation Machinery	Request for Information
Drug Tax Stamps	Returns
Drugs	Rolling Stock Exemption
Enterprise Zones	Sale at Retail
Exempt Organizations	Sale for Resale
Farm Machinery & Equipment	Sale of Service
Federal Excise Tax	Service Occupation Tax
Financial Institutions	Signature
Food	Special Order
Food, Drugs & Medical Appliances	Statute of Limitations
Governmental Bodies	Tax Collection
Graphic Arts	Tax Increment Financing
Gross Receipts	Tax Rate
Hotel Operators' Tax	Telecommunications Excise Tax
Interest	Temporary Storage
Interstate Commerce	Tire User Fee
Itinerant Vendors	Trade-Ins
Invested Capital Tax	Use Tax
Leasing	Vehicle Use Tax
Liquor Tax	Vendors
Local Taxes	
Mandatory Service Charges	
Manufacturer's Purchase Credit	
Manufacturers	

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50¢ per page for each page over one.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for \$3.00.

3. Name and address of person to contact concerning this information:

Margaret Forth  
Legal Services Office  
101 West Jefferson Street  
Springfield, Illinois 62794  
217/782-6996

AUTOMOBILE RENTING TAX

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

ST 97-0062-GIL 02/05/1997 86Ill. Adm. Code 180.125 sets forth the "Authorized Deductions from Gross Receipts" for purposes of the Automobile Renting Occupation Tax. (This is a GIL.)

## BINGO

ST 97-0051-GIL 01/29/1997 The Act does not expressly prohibit suppliers from selling bingo supplies to non-licensed individuals, as long as the supplies are not used to conduct the game of bingo, as authorized and described in the Act (this is a GIL).

## BOOKS AND RECORDS

ST 97-0023-GIL 01/08/1997 In general, taxpayers should preserve books and records reflecting gross, receipts receiving during any period for which the Department is authorized to issue a Notice of Tax Liability. See 86 Ill Adm. Code 130.815. (This is a GIL.)

## BULK SALES

ST 97-0030-GIL 01/15/1997 Taxpayers who outside the usual course of business transfer or sell the major part of inventory, fixtures, machinery or real estate shall no later than 10 days after the sale or transfer file a notice with the department. See 86 Ill. Adm. Code 130.1701. (This is a GIL.)

## CERTIFICATE OF REGISTRATION

ST 97-0153-GIL 03/19/1997 Section 3 of the Retailers' Occupation Tax Act gives the Department the authority to make collection of Retailers' Occupation Tax upon demand of the concessionaires at the Illinois State Fair, county fairs, art shows, flea markets and similar exhibitions or events. See 35 ILCS 120/3. (This is a GIL.)

## CHARITABLE GAMES

ST 97-0002-GIL 01/03/1997 Raffles are governed by the provisions of the Raffles Act, 230 ILCS 15/1 et seq. The Department is without authority to enforce or issue binding interpretations of this Act. (This is a GIL.)

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

ST 97-0019-GIL 01/08/1997 Section 5 of the Illinois Pull Tabs and Jar Games Act requires, in part, that the "logo of the manufacturer shall be clearly visible on each jar game ticket" sold in Illinois. In accordance with this provision, the Department requires manufacturers to report all logos that will be imprinted on their pull tabs. See 230 ILCS 20/5 (This is a GIL.)

## CIGARETTE TAX

ST 97-0170-GIL 03/31/1997 The current rate of Cigarette Tax and Cigarette Use Tax is 15 mills per cigarette. See 35 ILCS 130/2 and 135/2. (This is a GIL.)

## CLAIMS FOR CREDIT

ST 97-0013-GIL 01/07/1997 When an automobile dealer accepts the return of an automobile from a customer and refund the taxes paid to the purchaser, the dealer may then file a claim for credit, on form ST-556-X. The procedures used to file claims for credit are described in Section 130.1501 (this is a GIL).

## ST 97-0085-GIL

02/20/1997 Only persons who have actually paid tax to the Department can file a claim for credit. In order to submit a claim for credit, taxpayers must first establish that they have either borne the burden of the tax or that they have unconditionally repaid the amount of tax to the vendees from whom they have collected the tax. See 86 Ill. Adm. Code 130.1501 (This is a GIL.)

## ST 97-0167-GIL

03/27/1997 Claims for credit must contain all of the information required by 86 Ill. Adm. Code 130.1501(b). (This is a GIL.)

## COIN-OPERATED AMUSEMENT DEVICE

ST 97-0041-GIL An annual privilege tax is imposed upon the privilege of operating, in Illinois, any coin-in-the-slot operated amusement device. (This is a GIL.)

## COMPUTER SOFTWARE

ST 97-0036-GIL 01/17/1997 The application of the Retailers' Occupation Tax to sales of computer software is set out at 86 Ill. Adm. Code 130.1935. (This is a GIL.)



## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

ST 97-0069-GIL 02/05/1997 Transactions for the licensing of computer software are subject to ROT if the transaction agreements do not satisfy all the criteria set out in 86 Ill. Adm. Code 130.1935(a)(1). (This is a GIL.)

ST 97-0074-GIL 02/10/1997 Sales of canned computer software are taxable retail sales in Illinois. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)

ST 97-0089-GIL 02/20/1997 If a transaction for the licensing of computer software meets all of the criteria provided in 86 Ill. Adm. Code 130.1935(a)(1), neither the transfer of the software or the subsequent software updates will be subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)

ST 97-0134-GIL 03/06/1997 Software maintenance agreements are not generally taxed. Instead, the seller of the maintenance agreement incurs tax on the cost price of the tangible personal property transferred incident to completion of the maintenance agreement. However, in some instances, maintenance agreements are taxable. If the maintenance agreement provides for updates of canned software, and those upgrades are not separately stated and taxed, the entire maintenance agreement is taxable as a sale of canned software. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)

ST 97-0154-GIL 03/19/1997 This letter provides general information regarding computer software and nexus. See 86 Ill. Adm. Code 130.1935; 86 Ill. Adm. Code 150.201(i). (This is a GIL.)

ST 97-0162-GIL 03/24/1997 Sellers of maintenance agreements for computer hardware and software must pay Use Tax on the cost price of the materials transferred incident to service performed pursuant to the maintenance agreements. However, if the maintenance agreements provide for updates of canned software and the updates are not separately stated and taxed, the whole agreements would be taxable as sales of canned software. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)

## CONSTRUCTION CONTRACTORS

ST 97-0016-GIL 01/07/1997 Persons who permanently affix tangible personal property to real estate act as construction contractors and incur Use Tax liability on their cost

## DEPARTMENT OF REVENUE

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price of tangible personal property they physically incorporate into realty. See 86 Ill. Adm. Code 130.1940. (This is a GIL.)

01/28/1997 Construction contractors that make improvements to real estate by taking materials off the market and permanently affixing them to real estate owe Use Tax on the cost price of those materials. See 86 Ill. Adm. Code 130.1940. (This is a GIL.)

02/11/1997 Construction contractors are considered the end users of materials permanently affixed to real estate and owe Use Tax on the cost price of those materials. See 86 Ill. Adm. Code 130.2075. (This is a GIL.)

02/11/1997 Construction contractors may make tax free purchases of materials for incorporation into real estate owned by exclusively charitable, religious or educational institutions or organizations, certain not-for-profit organizations, and governmental organizations, providing that those organizations have active exemption numbers issued by the Department. See 86 Ill. Adm. Code 130.2075. (This is a GIL.)

02/11/1997 Where construction contractors are also manufacturers of the finished items which they will incorporate into real estate, the tax base is what the construction contractors paid for the materials incorporated into the finished item. See 86 Ill. Adm. Code 130.2075. (This is a GIL.)

02/26/1997 For purposes of the Illinois sales tax laws, construction contractors are deemed to be the users of the building materials which they permanently affixed to real estate. For that reason, they incur a Use Tax liability based on their cost price of those materials. See 86 Ill. Adm. Code 130.2075(a). (This is a GIL.)

03/04/1997 In Illinois, construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. As end users of such tangible personal property, contractors incur Use Tax liability for such purchases based upon their cost price. See 86 Ill. Adm. Code 130.1940 and 130.2075. (This is a GIL.)

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

ST 97-0145-GIL

03/11/1997 In order to qualify for the building materials exemption set forth at 86 Ill. Adm. Code 130.2075(d), the real estate must be owned by an exempt organization. (This is a GIL.)

ST 97-0160-GIL

03/24/1997 Construction contractors that make improvements to real estate by taking materials off the market and permanently affixing them to real estate owe Use Tax on the cost price of those materials. See 86 Ill. Adm. Code 130.2075. (This is a GIL.)

ST 97-0164-GIL

03/26/1997 In Illinois, construction contractors are deemed to be the users of the items that they permanently affix to realty and owe Use Tax on the cost price of those items. See 86 Ill. Adm. Code 130.2075. (This is a GIL.)

## DELIVERY CHARGES

ST 97-0090-GIL

02/20/1997 Whether shipping and handling or delivery charges are subject to Retailers' Occupation Tax liability depends upon whether the shipping and handling or delivery charges are included in the selling price of property or are agreed to apart from the selling price of the item being purchased. See 86 Ill. Adm. Code 130.415. (This is a GIL.)

ST 97-0128-GIL

03/05/1997 Incoming transportation or delivery costs may not be deducted by retailers when determining their Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.415. (This is a GIL.)

ST 97-0163-GIL

03/25/1997 Whether shipping and handling or delivery charges may be deducted by a retailer in determining his or her Retailers' Occupation Tax liability depends not upon the separate billing of shipping and handling or delivery charges, but whether the shipping and handling or delivery charges are included in the selling price of the property or are contracted for separately by the purchaser and the retailer. See 86 Ill. Adm. Code 130.415. (This is a GIL.)

ST 97-0168-GIL

03/27/1997 Transportation and delivery charges must be included in the Retailers' Occupation Tax base unless they have been agreed to separately from the selling price of the items being sold. See 86 Ill. Adm. Code 130.415. (This is a GIL.)

## DRUG TAX STAMPS

## DEPARTMENT OF REVENUE

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ST 97-0143-GIL

03/07/1997 In Wilson v. Department of Revenue, 169 Ill.2d 306 (1996), the Illinois Supreme Court held that the Double Jeopardy Clause of the U.S. Constitution prohibited an assessment based on the Cannabis and Controlled Substances Tax Act where the State had already prosecuted and sentenced the "Taxpayer" under criminal statutes (this is a GIL.)

## ENTERPRISE ZONES

ST 97-0073-GIL

02/10/1997 Retailers who make sales of building materials that will be incorporated into a High Impact Business location, as designated by the Department of Commerce and Community Affairs under Section 5.5 of the Illinois Enterprise Zone Act, may deduct receipts from such sales when calculating the tax imposed by the Illinois Retailers' Occupation Tax and any local taxes after June 30, 1995. If the materials are purchased from retailers before June 30, 1995 and on and after January 1, 1995, a deduction from only the 6.25% rate for the Illinois Retailers' Occupation tax liability exists. 86 Ill. Adm. Code 130.1952(a) explains the claim for credit procedure which must be followed to recover tax paid on purchases made on and after January 1, 1986 and prior to January 1, 1995. See 35 ILCS 120/51 and 86 Ill. Adm. Code 130.1952. (This is a GIL.)

ST 97-0095-GIL

02/24/1997 86 Ill. Adm. Code 130.1951 describes the types of building materials that are eligible for the enterprise zone building materials exemption. Built-in appliances that are physically incorporated into real estate can qualify for the exemption. (This is a GIL.)

ST 97-0096-GIL

02/24/1997 The enterprise zone building materials exemption allows retailers located in the municipality or unincorporated area of a county that established an enterprise zone to make tax-free sales of building materials that will be incorporated into real estate located in the enterprise zone. See 86 Ill. Adm. Code 130.1951. (This is a GIL.)

ST 97-0005-PLR

02/26/1997 This letter discusses tax treatment of manufacturing and assembling equipment and building materials purchased by a lessor for use in an HTB location. See 86 Ill. Adm. Code Sections 130.1951 and 130.1952. (This is a PLR.)

## DEPARTMENT OF REVENUE

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ST 97-0158-GIL

03/24/1997 The Enterprise Zone building materials exemption is available where building materials are purchased from a retailer located in a jurisdiction which created the Enterprise Zone into which the materials will be incorporated. See 86 Ill. Adm. Code 130.1951. (This is a GIL.)

## EXEMPT ORGANIZATIONS

ST 97-0053-GIL

01/30/1997 Federal credit unions are exempt from state taxation under the provisions of 12 U.S.C. 1768. These provisions exempt federal credit unions from incurring Use Tax liability in Illinois. However, when credit unions are required to remit "reimbursement" to hotel operators are subject to the Hotel Operators' Occupation Tax, the provisions of 12 U.S.C. 1768 do not apply. No "tax" is being imposed upon the credit unions from which to claim exemption, since the legal incidence of the Hotel Operators' Occupation Tax is upon the hotel operator. (This is a GIL.)

ST 97-0081-GIL

02/11/1997 Nonprofit organizations do not automatically qualify for exemption from sales tax for purchases made for fund raising projects. Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive an exemption identification number (an "E" number). 86 Ill. Adm. Code 130.2007. The taxation of sales by teacher-sponsored student organizations is described in 86 Ill. Adm. Code 130.2006. (This is a GIL.)

ST 97-0094-GIL

02/21/1997 The sales of candy bars and soda for fundraising purposes are treated differently than sales of candy bars and soda in a closed cafeteria setting. Please see 86 Ill. Adm. Code 130.2005(b)(4) and 130.2006. (This is a GIL.)

ST 97-0100-GIL

02/24/1997 Concrete forms, tools, fuels, lumber for forms and supplies are types of property used by construction contractors but not incorporated into real estate. The contractors owe Use Tax when purchasing these and other end use or consumption items even though the contractors are acting under construction contracts with exempt entities. See Section 130.2075(d)(3). (This is a GIL.)

ST 97-0101-GIL

02/24/1997 Concrete forms, tools, fuels, lumber for forms and supplies are types of property used by construction contractors but not incorporated into real estate. The

## DEPARTMENT OF REVENUE

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contractors owe Use Tax when purchasing these and other end use or consumption items even though the contractors are acting under construction contracts with exempt entities. See Section 130.2075(d)(3). (This is a GIL.)

## FARM MACHINERY &amp; EQUIPMENT

ST 97-0112-GIL

02/26/1997 This letter discusses application of the Farm Machinery and Equipment exemption to yield monitors, gravity flow wagons and combine grainhead carts. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

ST 97-0124-GIL

03/05/1997 Farm machinery and equipment that is used in farm management does not qualify for the exemption. See 86 Ill. Adm. Code 130.305(k). (This is a GIL.)

ST 97-0141-GIL

03/07/1997 The Retailers' Occupation Tax does not apply to equipment used or leased for use primarily in production agriculture or for use in State or Federal agricultural programs. See 86 Ill. Adm. Code 130.305 (This is a GIL.)

ST 97-0142-GIL

03/07/1997 Under the Retailers' Occupation Tax Act, the farm machinery and equipment exemption is available for purchases of machinery and equipment used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or federal agricultural programs. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

## FOOD

ST 97-0004-PLR

01/27/1997 Where an employer through an agent operates a restaurant that sells meals to its employees, the transactions constitute sales at retail subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.2050(a). (This is a PLR.)

ST 97-0148-GIL

03/13/1997 Schools can make tax free sales to students and employees at dining facilities that are closed to the public. See 86 Ill. Adm. Code 130.2005(b)(4) (This is a GIL.)

## FOOD, DRUGS &amp; MEDICAL APPLIANCES

ST 97-0011-GIL

01/06/1997 A natural dietary food supplement could qualify as a food item and could be taxed at the low rate plus applicable local taxes if it is not sold for



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immediate or on-premises consumption. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

ST 97-0071-GIL

02/05/1997 Products intended by the manufacturer for the treatment of nicotine addiction in humans generally can qualify for the low rate of tax. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

ST 97-0088-GIL

02/20/1997 Items that qualify as food, drugs, medicines, and medical appliances are subject to tax at the rate of 1% plus applicable local taxes. Items that do not qualify as food, drugs, medicines, and medical appliances are subject to tax at the rate of 6.25% plus applicable local taxes. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

ST 97-0114-GIL

02/28/1997 The manner in which food is taxed depends upon the nature of the establishment that is selling the food. Retailers who provide facilities for on-premises consumption of food generally incur tax at the high rate on all food sales. However, if establishments sell both food that has been prepared for immediate consumption and bulk or grocery type items and also provide facilities for on-premises consumption, the lower rate of tax may be charged on the bulk or grocery type items only if the facilities for on-premises consumption are physically partitioned and utilize the means of collection of receipts. See 86 Ill. Adm. Code 130.310(b)(3). (This is a GIL.)

ST 97-0119-GIL

03/03/1997 Food is defined as any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including foods such as condiments, spices, seasonings, vitamins, bottled water and ice. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

ST 97-0157-GIL

03/24/1997 The reduced rate of tax is applicable to food sold through vending machines except for soft drinks and food that is dispensed hot. (This is a GIL.)

## GAS REVENUE TAX

ST 97-0035-GIL

01/17/1997 Purchases of natural gas from out-of-State wellheads are not subject to Illinois Use Tax liability; however, any transport charges by Illinois pipelines for Illinois transport would be subject to the Gas Revenue Tax. See 35 ILCS 615/1 et seq.; 86 Ill. Adm. Code 470.155. (This is a GIL.)

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01/10/1997 Transportation pooling fees, charges, and penalties are subject to Gas Revenue Tax liability. See 86 Ill. Adm. Code 470.101. (This is a PLR.)

ST 97-0002-PLR

## GROSS RECEIPTS

ST 97-0012-GIL

01/07/1997 Interior designers that sell merchandise in addition to furnishing services, incur Retailers' Occupation Tax liability on the receipts from sales of such merchandise. See 86 Ill. Adm. Code 130.450. (This is a GIL.)

ST 97-0024-GIL

01/08/1997 In computing Retailers' Occupation Tax Liability, no deductions shall be made by taxpayers from gross receipts for labor expense or other costs of doing business. See 86 Ill. Adm. Code 130.410. (This is a GIL.)

ST 97-0056-GIL

01/31/1997 Costs of doing business are never deductible from gross receipts when calculating Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.410. (This is a GIL.)

ST 97-0003-PLR

01/17/1997 Standardized course materials which are sold to seminar participants as part of seminars are subject to Retailers' Occupation Tax. When such course materials are sold as part of the total charge for the seminars, it is necessary that the amount for the selling price of the manuals be allocated from the total charge and that tax be charged on that amount. This letter rescinds a Private Letter Ruling that was issued on July 26, 1995. (This is a PLR.)

ST 97-0091-GIL

02/20/1997 When retailers charge customers for restocking returned merchandise, the receipts retained by the retailer to cover the restocking fee are not considered taxable gross receipts for purposes of Retailers' Occupation Tax. (This is a GIL.)

ST 97-0137-GIL

03/06/1997 If the retailer offers a sale or discount price for an item, the lower amount received for the item would be the retailer's gross receipts for that sale. See 86 Ill. Adm. Code 130.420 and 130.2125. (This is a GIL.)

ST 97-0144-GIL

3/07/1997 Membership fees are generally considered intangibles and do not constitute gross receipts from the sale of tangible personal property. See 86 Ill. Adm. Code 130.101. (This is a GIL.)

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## HOTEL OPERATORS' TAX

ST 97-0061-GIL 02/05/1997 The Hotel Operators' Occupation Tax Act provides no exemption for the rental of rooms to governmental entities. See 86 Ill. Adm. Code 480.101. (This is a GIL.)

ST 97-0063-GIL 02/05/1997 The Hotel Operators' Occupation Tax Act provides no exemption for the rental of rooms to churches, charities, schools, or units of government. See 86 Ill. Adm. Code 480.101(b). (This is a GIL.)

## INTERSTATE COMMERCE

ST 97-0044-GIL 01/27/1997 A sale is taxable even though a purchaser who receives physical possession of the property in this State, transports or sends the property out of this State for use outside the State or for use in the conduct of interstate commerce. See 86 Ill. Adm. Code 130.605. (This is a GIL.)

ST 97-0138-GIL 03/06/1997 Retailers' Occupation Tax does not apply where sellers ship goods from a point within Illinois to a point outside Illinois and the goods are not to be returned to Illinois. See 86 Ill. Adm. Code 130.605. (This is a GIL.)

## LEASING

ST 97-0008-GIL 01/06/1997 Except for automobiles leased for a period of one year or less, the lessor of tangible personal property in Illinois is considered to be the end user of the property to be leased. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

ST 97-0026-GIL 01/10/1997 Lessors are subjected to a Use Tax on their cost price of tangible personal property which they use by leasing in Illinois. See 86 Ill. Adm. Code 130.2010. (This is a GIL.)

ST 97-0033-GIL 01/17/1997 Lease agreements that contain purchase options for the fair market value of the tangible personal property at the end of the lease term are considered true leases, and the lessors incur Use Tax liability on their cost price of tangible personal property purchased for rental purposes. See 86 Ill. Adm. Code 130.2010. (This is a GIL.)

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ST 97-42-GIL 01.23.1997 Lease agreements that contain purchase options that are equal to the fair market value of the tangible personal property at the end of the lease term are considered true leases, and the lessors incur Use Tax liability on their cost price of tangible personal property purchased for rental purposes. See 86 Ill. Adm. Code 130.2010. (This is a GIL.)

ST 97-0057-GIL 01/31/1997 For purposes of the Illinois sales tax laws, lessors of tangible personal property under true leases are considered to be the end users of the property to be leased and incur Use Tax on the lessors' cost price of the property. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

ST 97-0068-GIL 02/05/1997 Lease agreements that contain purchase options that are equal to the fair market value of the tangible personal property at the end of the lease term are considered true leases, and the lessors incur Use Tax liability on their cost price of tangible personal property purchased for rental purposes. See 86 Ill. Adm. Code 130.2010. (This is a GIL.)

ST 97-0083-GIL 02/19/1997 Lease agreements that contain purchase options that are equal to the fair market value of the tangible personal property at the end of the lease term are considered true leases, and the lessors incur Use Tax liability on their cost price of tangible personal property purchased for rental purposes. See 86 Ill. Adm. Code 130.2010. (This is a GIL.)

ST 97-0093-GIL 02/21/1997 In a true lease situation, the lessor is deemed to be the user of the item being leased and incurs a Use Tax liability based on his cost price of the item. See 86 Ill. Adm. Code 150.310(3) (This is a GIL.)

ST 97-0097-GIL 02/24/1997 This letter discusses the taxability of sale/leaseback situations. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

ST 97-0099-GIL 02/24/1997 Lessors of tangible personal property under true leases in Illinois, are deemed end users of the property to be leased. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

ST 97-0106-GIL 02/25/1997 In Illinois, lessors of tangible personal property under a true lease, except for automobiles leased for terms of one year or less, are considered to be end

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users of the property to be leased. See 86 Ill. Adm. Code 130.220 and 130.2010. As end users of tangible personal property located in Illinois, lessors incur Use Tax on the lessors' cost price of the property. (This is a GIL.)

ST 97-0113-GIL

02/27/1997 This letter discusses the application of the Illinois sales tax laws to true lease/conditional sale situations. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

ST 97-0118-GIL

03/03/1997 Rental receipts from leases of trucks under true leases are not subject to tax. Rather, lessors incur a Use Tax liability "up front" on the cost price of the trucks which they purchase for leasing purposes under true leases. See 86 Ill. Adm. Code 130.2010. (This is a GIL.)

ST 97-0121-GIL

03/04/1997 Lessors who lease merchandise pursuant to true rental agreements are deemed to be the end users of such merchandise and owe Use Tax on the merchandise. Transactions involving the sale of leases along with the sale of tangible personal property, may have Retailers' Occupation Tax consequences. See 86 Ill. Adm. Code 130.2010; 86 Ill. Adm. Code 130.220; 86 Ill. Adm. Code 130.1960. (This is a GIL.)

ST 97-0129-GIL

03/05/1997 The State of Illinois taxes leases differently for Retailers' Occupation Tax and Use Tax purposes than the majority of other states. In Illinois, lessors are deemed to be the users of items which they purchase for their rental inventories. For that reason, lessors incur a Use Tax liability based on their cost price of items purchased for lease under true lease agreements and rental receipts are not taxed. The only exception to this is the rental of an automobile under lease terms of one year or less. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

ST 97-0135-GIL

03/06/1997 In Illinois, lessors of tangible personal property under a true lease, except for automobiles leased for terms of one year or less, are considered to be the end users of the property to be leased. As the end users of tangible personal property located in Illinois, lessors incur Use Tax on their cost price of the property. See 86 Ill. Adm. Code 130.220 and 130.2010. (This is a GIL.)

ST 97-0140-GIL

03/07/1997 This letter discusses how sale/leaseback situations are taxed. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

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ST 97-0155-GIL

03/19/1997 Lessors incur Use Tax liability on their cost price of tangible personal property purchased for rental purposes. See 86 Ill. Adm. Code 130.2010. (This is a GIL.)

ST 97-0159-GIL

03/24/1997 Lessors of tangible personal property in Illinois under true leases are considered to be the end users of the property to be leased and incur a Use Tax liability on their cost price of the property. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

ST 97-0165-GIL

03/27/1997 Lease agreements which contain purchase options for the fair market value of the tangible personal property at the end of the lease term are considered true leases, and the lessors incur a Use Tax liability on their cost price of tangible personal property purchased for rental purposes. See 86 Ill. Adm. Code 130.2010. (This is a GIL.)

## LIQUOR TAX

ST 97-0067-GIL

02/05/1997 A tax is imposed upon the privilege of engaging in business as a manufacturer or as an importing distributor of alcoholic liquor. See 235 ILCS 5/8-1. (This is a GIL.)

## LOCAL TAXES

ST 97-0120-GIL

03/03/1997 The location at which the purchase order is accepted determines the proper tax rate. Absent clear proof to the contrary, the Department will assume that the retailer has accepted the purchase order at the place of business at which the retailer receives the purchase order (retailer's location). In the absence of acceptance of a purchase order in Illinois, the location of the sale is considered to be where the inventory is maintained in the State. See 86 Ill. Adm. Code 220.115 (This is a GIL.)

ST 97-0166-GIL

03/27/1997 The various home rule ROT, SOT and related local taxes in Illinois, are triggered when "selling" occurs in a jurisdiction imposing a tax. The most important element of selling is the seller's acceptance of the purchase order. See 86 Ill. Adm. Code 270.115(b). (This is a GIL.)

## MANUFACTURER'S PURCHASE CREDIT



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ST 97-0127-GIL 03/05/1997 Manufacturer's Purchase Credit can be used to satisfy the purchaser's tax liability when purchasing "production related" tangible personal property. See 20 Ill. Reg. 7773 (June 14, 1996). (This is a GIL.)

## MANUFACTURING MACHINERY &amp; EQUIPMENT

ST 97-0003-GIL 01/03/1997 Sellers of machinery, tools, dies, jigs, patterns, gauges and the like to users or consumers incur Retailers' Occupation Tax liability unless such person is a seller of a special machine, tool, die, jig, patter, gauge or other similar item and is engaged primarily in a service occupation. See 86 Ill. Adm. Code 130.2115. (This is a GIL.)

ST 97-0047-GIL 01/28/1997 This letter discusses the Manufacturing Machinery and Equipment exemption with regard to excavators used in conjunction with shears. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

ST 97-0048-GIL 01/28/1997 The Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

ST 97-0052-GIL 01/29/1997 The manufacturing machinery & equipment exemption applies to computers used primarily in operating exempt machinery and equipment in a computer-assisted manufacturing system. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

ST 97-0108-GIL 02/25/1997 The Manufacturing Machinery and Equipment exemption found at 86 Ill. Adm. Code 130.330 contains no exemption for gas, electricity and water used in the manufacturing process. (This is a GIL.)

ST 97-0111-GIL 02/26/1997 The Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in manufacturing or assembling tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

ST 97-0117-GIL 03/03/1997 The manufacturing machinery & equipment exemption can apply to equipment used to place the tangible personal property into the wrapping, package or container in which it will be sold to the ultimate consumer. See 86 Ill. Adm. Code 130.330(d)(3)(E). (This

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is a GIL.)

ST 97-0150-GIL 03/14/1997 Palletizers may qualify for the manufacturing machinery and equipment exemption if they are used in an activity covered by 86 Ill. Adm. Code 130.330(d). (This is a GIL.)

ST 97-0171-GIL 03/31/1997 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption extends to machinery and equipment that is used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

ST 97-0007-PLR 03/05/1997 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption extends to machinery and equipment that is used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. This letter discusses whether equipment used in a soybean crushing plant qualifies for the exemption. (This is a PLR.)

## MEDICAL APPLIANCES

ST 97-0004-GIL 01/6/1997 Wheelchairs are considered medical appliances and qualify for the 1% State rate. See 86 Ill. Adm. Code. (This is a GIL.)

ST 97-0025-GIL 01/09/1997 A medical appliance is an item that is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

ST 97-0037-GIL 01/17/1997 To qualify as a medical appliance, an item must directly substitute for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.310(c)(2). (This is a GIL.)

ST 97-0131-GIL 03/05/1997 Medicines and medical appliances are not taxed at the normal State rate of 6.25%. These items are taxed at a lower State rate of 1%. A medical appliance is defined as an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

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- ST 97-0169-GIL 03/31/1997 Transcutaneous Electronic Nerve Stimulators (TENS) and similar microcurrent devices do not meet the definition of a medical appliance; therefore, they do not qualify for the low rate of tax. See 86 Ill. Adm. Code 130.310. (This is a GIL.)
- MISCELLANEOUS
- ST 97-0005-GIL 01/06/1997 This letter requests Form ST-1, Sales and Use Tax Return. (This is a GIL.)
- ST 97-0017-GIL 01/07/1997 This letter requests that the Department review a paragraph published in PUBLICATION. (This is a GIL.)
- ST 97-0031-GIL 01/17/1997 Response to taxpayer inquiry regarding motor fuel tax applied to non-highway use. (This is a GIL.)
- ST 97-0058-GIL 01/27/1997 Any tax collected by a retailer from a customer constitutes a debt owed by that retailer to the State of Illinois. 35 ILCS 105/8. (This is a GIL.)
- ST 97-0076-GIL 02/10/1997 This letter discusses several matters related to sales and use tax obligations of out-of-state mail order catalog retailers. See 86 Ill. Adm. Code 150.201(i); Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992). (This is a GIL.)
- ST 97-0105-GIL 02/25/1997 This letter responds to a general request for information regarding the registration of new Illinois business and their Retailers' Occupation Tax and Use Tax obligations. (This is a GIL.)
- ST 97-0107-GIL 02/25/1997 This letter generally discusses exempt organizations, manufacturing machinery and equipment, manufacturer's purchase credit and pollution control facilities. See 86 Ill. Adm. Code 130.2005, 130.330 and 130.335. (This is a GIL.)
- ST 97-0122-GIL 03/04/1997 This letter discusses documentation of sales for resale and taxation of membership fees. See 86 Ill. Adm. Code 130.1405. (This is a GIL.)
- ST 97-0146-GIL 03/13/1997 This letter discusses the general principles of retailers documenting sales for resale and sales to exempt organizations. See 86 Ill. Adm. Code 130.1405 (This is a GIL.)

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- ST 97-0156-GIL 03/19/1997 The Board of Appeals administers a voluntary disclosure program that provides for limited liabilities for participants who come forward and disclose their tax liabilities. See 86 Ill. Adm. Code 210.126. (This is a GIL.)
- MOTOR FUEL TAX
- ST 97-0001-PUR 01/02/1997 Claims for refund of Motor Fuel Tax imposed by Section 2 of the Law must be documented as required by 86 Ill. Adm. Code 500.235. (This is a PUR.)
- ST 97-0115-GIL 02/28/1997 Exemptions available to municipalities under the Motor Fuel Tax are limited to municipal corporations owning and operating a local transportation system for public service in Illinois. See 86 Ill. Adm. Code 500.210. (This is a GIL.)
- NEXUS
- ST 97-0070-GIL 02/05/1997 The U.S. Supreme Court in Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992) set forth guidelines for determining what nexus requirements must be met before a person is properly subject to a state's tax laws. (This is a GIL.)
- ST 97-0116-GIL 03/03/1997 This letter discusses various topics including nexus and the taxation of lessors. See 86 Ill. Adm. Code 130.220. See also Quill v. North Dakota, 112 S.Ct. 1904 (1992). (This is a GIL.)
- ST 97-0136-GIL 03/06/1997 Retailers who maintain an inventory in Illinois and fill Illinois orders from that inventory are "Illinois retailers" and are liable for Retailers' Occupation Tax on gross receipts from sales. (This is a GIL.)
- POLLUTION CONTROL FACILITIES
- ST 97-0060-GIL 02/04/1997 Trucks do not qualify for the exemption available to pollution control facilities. (This is a GIL.)
- ST 97-0072-GIL 02/05/1997 Home sewage treatment systems that use a combination of aeration and aerobic bacterial action to treat household wastewater and thereby reduce or eliminate pollutants contained in household wastewater may qualify for the pollution control facilities exemption. See 86

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## PUBLIC UTILITY TAXES

Ill. Adm. Code 130.335. (This is a GIL.)

ST 97-0050-GIL 01/28/1997 This letter describes the exclusion from the Gas Revenue Tax Act provided by Public Act 89-417. See P.A. 89-417. (This is a GIL.)

ST 97-0066-GIL 02/05/1997 The Public Utilities and Gas Revenue Tax Acts contain no exemption for "exclusively" charitable, religious and educational organizations. See 35 ILCS 615/1 et seq. and 620/1 et seq. (This is a GIL.)

## ROLLING STOCK EXEMPTION

ST 97-0015-GIL 01/07/1997 The rolling stock exemption is available for sales to lessors who then sublease that property to interstate carriers for hire for use as rolling stock in interstate commerce. See 86 Ill. Adm. Code 130.340. (This is a GIL.)

ST 97-0018-GIL 01/08/1997 The rolling stock exemption does not extend to fuel. However, 86 Ill. Adm. Code 130.321 explains that aviation fuel sold to or used by an air common carrier for a flight destined for a destination outside the United States can be purchased tax-free. (This is a GIL.)

ST 97-0020-GIL 01/08/1997 The Retailers' Occupation and Use Tax Acts provide an exemption for sales of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce. See 86 Ill. Adm. Code 130.340. (This is a GIL.)

ST 97-0029-GIL 01/15/1997 The Retailers' Occupation and Use Tax Acts provide an exemption for sales of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce for hire. See 86 Ill. Adm. Code 130.340. (This is a GIL.)

ST 97-0161-GIL 03/24/1997 This letter discusses qualifying activities of railcars and locomotives under the Rolling Stock exemption. See 86 Ill. Adm. Code 130.340. (This is a GIL.)

## SALE AT RETAIL

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ST 97-0014-GIL 01/07/1997 When making sales of inventory for a discontinued business, the sales must be treated as any other retail sales made by the business during its operation. If the sale is made to a purchaser for use or consumption, the sale is a taxable retail sale. If the sale is for resale to another retailer, then the purchaser must give a valid Certificate of Resale in order for the sale to be free from tax. (This is a GIL.)

ST 97-0032-GIL 01/17/1997 The Retailers' Occupation Tax Act contains no exemption for motor fuel purchased for off-road use. 35 ILCS 505/1 et seq. (This is a GIL.)

ST 97-0064-GIL 02/05/1997 This letter discusses tax issues related to the sale of residential security systems. See 35 ILCS 120/1. (This is a GIL.)

ST 97-0130-GIL 03/05/1997 An Illinois Use Tax collection obligation is incurred by out of state companies that have nexus with the State of Illinois. See 86 Ill. Adm. Code 130.105. (This is a GIL.)

ST 97-0133-GIL 03/05/1997 Retailers' Occupation Tax and Use Tax do not apply to receipts from sales of personal service such as the providing of seminars. However, if tangible personal property (such as standard program materials) are provided as part of a seminar, it is generally subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.101. (This is a GIL.)

ST 97-0147-GIL 03/13/1997 The Retailers' Occupation Tax Act, 35 ILCS 120/1 et seq., imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. The tax is measured by the seller's gross receipts from such sales made in the course of such business. (This is a GIL.)

ST 97-0009-PLR 03/17/1997 For the purposes of the Retailers' Occupation Tax Act, any tax liability incurred in respect to a sale of tangible personal property made in the regular course of business shall be computed by applying, to the gross receipts from such sale, the tax rate in effect as of the date of delivery of such property, provided that if delivery occurs after the tax rate changes, in a transaction in which receipts were received before the date of the rate change and tax was paid on such receipts when received by the seller at the rate which was in effect when the seller received such receipts, no



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additional tax will be due or credit allowed because of the delivery of the property occurring after the rate changes. See 86 Ill. Adm. Code 130.101. (This is a PLR.)

## SALE FOR RESALE

ST 97-0043-GIL

01/24/1997 Whether labels can be purchased tax exempt as sales for resale depends upon whether the labels can be considered part of the packaging. See 86 Ill. Adm. Code 130.2070 for information regarding when packaging materials and containers may be purchased without incurring tax liability. Labels are considered part of the packaging when they are primarily of benefit and utility to the ultimate purchaser of the item to which the labels are attached (e.g. instructions for preparation or assembly). However, when the labels are primarily for the benefit of sellers of the items (e.g., point-of-sale advertising), the labels are taxable under Retailers' Occupation Tax and Use Tax. (This is a GIL.)

ST 97-0045-GIL

01/27/1997 As sellers required to collect Illinois tax, companies must either charge tax or document exemptions when they make deliveries in Illinois. In order to document the fact that their sales to purchasers are sales for resale, companies are obligated by Illinois to obtain valid Certificates of Resale from the purchasers. See 86 Ill. Adm. Code 130.1405. (This is a GIL.)

ST 97-0059-GIL

02/03/1997 In a drop ship situation, the purchaser must provide the seller with a Certificate of Resale documenting the fact that the sale to the purchaser (with delivery in Illinois) is a sale for resale. While a registration/resale number on a Certificate of Resale is preferred, the purchaser can also provide "other evidence" on the resale certificate that the sale was for resale. See 86 Ill. Adm. Code 130.1405. (This is a GIL.)

ST 97-0065-GIL

02/05/1997 This letter describes when sales of items such as shortening and cooking oils may be purchased for resale. See 86 Ill. Adm. Code Sections 130.210, 130.1405 and 130.310. (This is a GIL.)

ST 97-0103-GIL

02/24/1997 Certificates of Resale containing all of the information set out in 86 Ill. Adm. Code 130.1405 are sufficient to document sales for resale. See 86 Ill. Adm. Code 130.1405. (This is a GIL.)

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ST 97-0104-GIL 02/25/1997 Under the Retailers' Occupation Tax Act, the sale of tangible personal property to a purchaser for the purpose of resale in any form as tangible personal property is not subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.210. (This is a GIL.)

ST 97-0110-GIL

02/26/1997 Persons who make no taxable sales may obtain resale numbers in order to document purchases for resale. See 86 Ill. Adm. Code 130.1401. (This is a GIL.)

ST 97-0132-GIL

03/05/1997 In a drop ship situation, the purchaser must provide the seller with a Certificate of Resale documenting the fact that the purchase is being made for resale. While including registration/resale numbers on Certificates of Resale is preferred, purchasers can also provide "other evidence" that sales are for resale. See 86 Ill. Adm. Code 130.1405. (This is a GIL.)

ST 97-0006-PLR

03/03/1997 Tangible personal property can be purchased for resale to the extent that it is resold as an ingredient of intentionally produced products or byproducts. See 86 Ill. Adm. Code 130.120(c). (This is a PLR.)

ST 97-0011-PLR

03/24/1997 The sale of containers, as defined in 86 Ill. Adm. Code 130.2070 is not subject to Retailers' Occupation Tax when the purchasers of such containers transfer to customers the ownership of the containers together with what is contained in them. (This is a PLR.)

## SALE OF SERVICE

ST 97-0007-GIL

01/06/1997 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred as an incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 97-0010-GIL

01/ Servicemen are taxed on tangible personal property transferred as an incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 97-0028-GIL

01/15/1997 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred as an incident to sales of service. See 86 Ill. Adm. Code 140.101. This is a GIL.)

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

ST 97-0077-GIL 02/11/1997 This letter discusses application of the Service Occupation Tax to food services provided to residents of retirement homes. See 86 Ill. Adm. Code 140.101; 86 Ill. Adm. Code 130.1405. (This is a GIL.)

ST 97-0084-GIL 02/20/1997 Veterinarians are engaged in a service occupation subject to the Service Occupation Tax. The Service Occupation Tax is a tax imposed upon tangible personal property transferred as an incident of the sale of service. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 97-0087-GIL 02/20/1997 A veterinarian is engaged in a service occupation subject to the Service Occupation Tax. The Service Occupation Tax is a tax imposed upon tangible personal property transferred as an incident of the sale of service. See 86 Ill. Adm. Code 140.101. If a veterinarian transfers tangible personal property to a patient as a result of the practice of veterinary medicine, he or she will be subject to Service Occupation Tax for that type of transfer, rather than Retailers' Occupation Tax. (This is a GIL.)

ST 97-0139-GIL 03/06/1997 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. See 35 ILCS 115/1 et seq. (This is a GIL.)

ST 97-0151-GIL 03/19/1997 Servicemen over the SOT de minimus threshold incur Service Occupation Tax liability based on their separately stated selling price of tangible personal property transferred incident to service or, if the selling price is not separately stated, then on 50% of the entire service billing (not less than cost). See 86 Ill. Adm. Code 140.101. (This is a GIL.)

## SERVICE OCCUPATION TAX

ST 97-0006-GIL 01/06/1997 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred as an incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 97-0009-GIL 01/06/1997 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred as an incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is GIL.)

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

ST 97-0040-GIL 01/22/1997 If long term blanket or master contracts are entered into in Illinois, but must be implemented by the purchasers' placing of specific orders when goods are wanted, the sellers' place of business with which the specific orders are placed will determine where the sellers are engaged in business for purposes of the Service Occupation Tax. See 86 Ill. Adm. Code 270.115(d). (This is a GIL.)

ST 97-0055-GIL 01/31/1997 The purchase of tangible personal property that is transferred by servicemen to service customers may result in either Service Occupation Tax liability or Use Tax liability for the servicemen. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 97-0075-GIL 02/10/1997 In general, sellers of personalized items, such as business calling cards, letterheads, etc., do not incur Retailers' Occupation Tax liability on their receipts from such sales because they are engaged in a service occupation in producing or procuring custom-ordered items that have no commercial value to anyone other than the service customer. See 86 Ill. Adm. Code 130.1995. (This is a GIL.)

ST 97-0092-GIL 02/20/1997 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred as an incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 97-0126-GIL 03/05/1997 Under the Service Occupation Tax Act, the purchase of tangible personal property that is transferred to service customers may result in either Service Occupation Tax liability or Use Tax liability for the servicemen. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 97-0152-GIL 03/19/1997 This letter provides information concerning Service Occupation Tax issues and sales of computer software. See 86 Ill. Adm. Code 140.101; 86 Ill. Adm. Code 130.1935. (This is a GIL.)

## TELECOMMUNICATIONS EXCISE TAX

ST 97-0021-GIL 01/08/1997 In prepaid telephone card programs, the Telecommunications Excise Tax is incurred at the time telephone service is used in a taxable manner. The arrangement between the telephone service providers and the retail stores will affect the method of tax collection

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

required. See 35 ILCS 630/1 et seq. (This is a GIL.)

ST 97-0054-GIL 01/30/1997 This letter discusses the taxation of telephone cards. (This is a GIL.)

ST 97-0149-GIL 03/13/1997 As long as database providers charge only for the search, and do not charge for the telecommunications transmission charges, the transactions are not subject to the Telecommunications Excise Tax. See 86 Ill. Adm. Code 495.100. (This is a GIL.)

ST 97-0010-PLR 03/17/1997 Telecommunications Excise Tax is incurred where telecommunications originate or terminate in Illinois and are billed to an Illinois service address. (This is a PLR.)

## USE TAX

ST 97-0022-GIL 01/08/1997 A donor who purchases tangible personal property and gives the tangible personal property to a donee makes a taxable use of the property when making the gift. See 86 Ill. Adm. Code 150.305. (This is a GIL.)

ST 97-0038-GIL 01/17/1997 Persons who provide cleaning services and use cleaning supplies as part of those services incur Use Tax liability on the cost price of those cleaning supplies. See 86 Ill. Adm. Code 150.101. (This is a GIL.)

ST 97-0039-GIL 01/22/1997 When retailers or other persons issue coupons which entitle the bearer to obtain an item of tangible personal property free of any charge whatever and not conditioned upon the purchase of other property, the furnishing of such tangible personal property does not constitute a sale under the Retailers' Occupation Tax and retailers do not incur Retailers' Occupation Tax liability. However, retailers issuing such coupons, as donors, incur Use Tax liability on their cost price of the tangible personal property actually transferred as a result of such coupons. See 86 Ill. Adm. Code 130.2125. (This is a GIL.)

ST 97-0082-GIL 2/14/1997 Federal Credit Unions are exempt from payment of Use Tax because of the provisions of 12 U.S.C. 1768. However, neither that federal statute nor the Illinois sales tax laws exempt retailers from Retailers' Occupation Tax liability when making sales to Federal Credit Unions. Consequently, Illinois retailers do incur Retailers' Occupation Tax liability on sales to Federal Credit Unions

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

but are unable to collect the complementary Use Tax. (This is a GIL.)

ST 97-0098-GIL 02/24/1997 Retailers are required to collect the Use Tax from customers when purchases are subject to Use Tax liability. See 86 Ill. Adm. Code 150.401(a). Purchasers may not choose to pay Use Tax directly to the Department instead of paying it to their retailers. (This is a GIL.)

ST 97-0102-GIL 02/24/1997 In a gift situation, the donor who purchases the property and gives it away makes a taxable use of the property when making the gift. See 86 Ill. Adm. Code 150.305(c). (This is a GIL.)

ST 97-0125-GIL 03/05/1997 The Use Tax Act imposes a tax on the use of tangible personal property purchased from a retailer. 35 ILCS 105/3 (1994 State Bar Edition). (This is a GIL.)

## VEHICLE USE TAX

ST 97-0086-GIL 02/20/1997 In Illinois, lessors of tangible personal property under a true lease, except for automobiles leased for terms of one year or less, are considered to be end users of the property to be leased. See 86 Ill. Adm. Code 130.220 and 130.2010. As end users of tangible personal property located in Illinois, lessors incur Use Tax on their cost price of the property. (This is a GIL.)

ST 97-0008-PLR 03/06/1997 In order to qualify for the \$15 Vehicle Use Tax rate, there may not be a change in beneficial ownership when vehicles are transferred in connection with the organization, reorganization, dissolution or partial liquidation of an incorporated or unincorporated business. See 625 ILCS 5/3-1001. (This is a PLR.)



## JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER  
ROOM 16-503  
CHICAGO, ILLINOIS  
10:30 A.M..  
JUNE 17, 1997

NOTICES: Due to Register submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting.

*It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules 700 Stratton Office Building  
Springfield, Illinois 62706*

RULEMAKINGS SCHEDULED FOR JCAR REVIEW

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

PROPOSED RULEMAKINGSAging

1. Older Americans Act Programs (89 Ill Adm Code 230)  
-First Notice Published: 20 Ill Reg 14668 - 11/15/96  
-Expiration of Second Notice Period: 7/13/97

2. Elder Rights (89 Ill Adm Code 270)

-First Notice Published: 20 Ill Reg 14662 - 11/15/96  
-Expiration of Second Notice Period: 7/13/97

Agriculture

3. Meat and Poultry Inspection Act (8 Ill Adm Code 125)  
-First Notice Published: 21 Ill Reg 4067 - 4/4/97  
-Expiration of Second Notice Period: 7/6/97

Banks and Real Estate

4. Blacklist Discrimination (38 Ill Adm Code 302)  
-First Notice Published: 21 Ill Reg 4294 - 4/4/97

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-Expiration of Second Notice Period: 7/10/97

5. Bank Branches (38 Ill Adm Code 305)  
-First Notice Published: 21 Ill Reg 4290 - 4/4/97  
-Expiration of Second Notice Period: 7/10/97
6. Calculation, Assessment and Collection of Periodic Fees (38 Ill Adm Code 375)  
-First Notice Published: 21 Ill Reg 4298 - 4/4/97  
-Expiration of Second Notice Period: 7/10/97
7. Eligible State Bank (38 Ill Adm Code 380)  
-First Notice Published: 21 Ill Reg 4303 - 4/4/97  
-Expiration of Second Notice Period: 7/10/97

Central Management Services

8. State (of Illinois) Employees' Deferred Compensation Plan (80 Ill Adm Code 2700)  
-First Notice Published: 21 Ill Reg 2773 - 2/28/97  
-Expiration of Second Notice Period: 6/25/97

9. The Travel Regulation Council (80 Ill Adm Code 3000)  
-First Notice Published: 21 Ill Reg 3353 - 3/21/97  
-Expiration of Second Notice Period: 6/28/97

10. Auto Liability (80 Ill Adm Code 3100)  
-First Notice Published: 20 Ill Reg 13473 - 10/18/96  
-Expiration of Second Notice Period: 7/2/97

Commerce Commission

11. Confidential Contracts (83 Ill Adm Code 335)  
-First Notice Published: 21 Ill Reg 3787 - 3/28/97  
-Expiration of Second Notice Period: 7/11/97

Comptroller

12. Comptroller Merit Employment Code (80 Ill Adm Code 500)  
-First Notice Published: 21 Ill Reg 2869 - 3/7/97  
-Expiration of Second Notice Period: 6/18/97

Corrections

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

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13. Reimbursement for Expenses (20 Ill Adm Code 110)  
-First Notice Published: 21 Ill Reg 3360 - 3/21/97  
-Expiration of Second Notice Period: 6/28/97
- Criminal Justice Information Authority
14. Operating Procedures for the Administration of Federal Funds (20 Ill Adm Code 1520)  
-First Notice Published: 21 Ill Reg 752 - 1/17/97  
-Expiration of Second Notice Period: 6/20/97
- Educational Facilities Authority
15. Functions and Planning Program (23 Ill Adm Code 2310)  
-First Notice Published: 21 Ill Reg 3365 - 3/21/97  
-Expiration of Second Notice Period: 6/28/97
- Elections
16. The Campaign Financing Act (26 Ill Adm Code 100)  
-First Notice Published: 21 Ill Reg 3017 - 3/14/97  
-Expiration of Second Notice Period: 7/13/97
- Employment Security
17. General Application (56 Ill Adm Code 2712)  
-First Notice Published: 21 Ill Reg 4136 - 4/4/97  
-Expiration of Second Notice Period: 7/13/97
18. Claims, Adjudication, Appeals and Hearings (56 Ill Adm Code 2720)  
-First Notice Published: 21 Ill Reg 4105 - 4/4/97  
-Expiration of Second Notice Period: 7/16/97
19. Employment (56 Ill Adm Code 2732)  
-First Notice Published: 21 Ill Reg 4120 - 4/4/97  
-Expiration of Second Notice Period: 7/13/97
- Health Care Cost Containment Council
20. Data Collection (77 Ill Adm Code 2510)  
-First Notice Published: 21 Ill Reg 3023 - 3/14/97  
-Expiration of Second Notice Period: 7/11/97

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- Housing Development Authority
21. Low-Income Housing Tax Credit Allocation (47 Ill Adm Code 350)  
-First Notice Published: 21 Ill Reg 3790 - 3/28/97  
-Expiration of Second Notice Period: 6/27/97
- Mental Health and Developmental Disabilities
22. Grants (59 Ill Adm Code 103)  
-First Notice Published: 21 Ill Reg 1518 - 2/7/97  
-Expiration of Second Notice Period: 6/27/97
23. Minimum Standards for Licensure of Community Residential Alternatives (59 Ill Adm Code 113)  
-First Notice Published: 21 Ill Reg 1545 - 2/7/97  
-Expiration of Second Notice Period: 6/27/97
24. Standards and Licensure Requirements for Community-Integrated Living Arrangements (59 Ill Adm Code 115)  
-First Notice Published: 21 Ill Reg 1563 - 2/7/97  
-Expiration of Second Notice Period: 6/27/97
25. Minimum Standards for Certification of Developmental Training Programs (59 Ill Adm Code 119)  
-First Notice Published: 21 Ill Reg 1532 - 2/7/97  
-Expiration of Second Notice Period: 6/27/97
26. Early Intervention Program (59 Ill Adm Code 121)  
-First Notice Published: 21 Ill Reg 1506 - 2/7/97  
-Expiration of Second Notice Period: 6/27/97
27. Medicaid Community Mental Health Services Program (59 Ill Adm Code 132)  
-First Notice Published: 21 Ill Reg 1527 - 2/7/97  
-Expiration of Second Notice Period: 6/27/97
- Natural Resources
28. Camping on Department of Natural Resources Properties (17 Ill Adm Code 130)  
-First Notice Published: 21 Ill Reg 3809 - 3/28/97  
-Expiration of Second Notice Period: 6/27/97

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29. Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Rabbit Hunting (17 Ill Adm Code 530)  
-First Notice Published: 21 Ill Reg 4186 - 4/4/97  
-Expiration of Second Notice Period: 7/6/97
30. Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck (Groundhog) Hunting (17 Ill Adm Code 550)  
-First Notice Published: 21 Ill Reg 4255 - 4/4/97  
-Expiration of Second Notice Period: 7/6/97
31. Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, Beaver and Woodchuck (Groundhog) Trapping (17 Ill Adm Code 570)  
-First Notice Published: 21 Ill Reg 4248 - 4/4/97  
-Expiration of Second Notice Period: 7/6/97
32. Repeal of Americans with Disabilities Act Grievance Procedure (4 Ill Adm Code 600)  
-First Notice Published: 21 Ill Reg 3369 - 3/21/97  
-Expiration of Second Notice Period: 6/18/97
33. Repeal of Americans with Disabilities Act Grievance Procedure (4 Ill Adm Code 625)  
-First Notice Published: 21 Ill Reg 3375 - 3/21/97  
-Expiration of Second Notice Period: 6/18/97
34. White-Tailed Deer Hunting by Use of Firearms (17 Ill Adm Code 650)  
-First Notice Published: 21 Ill Reg 3817 - 3/28/97  
-Expiration of Second Notice Period: 6/27/97
35. White-Tailed Deer Hunting Season by Use of Muzzleloading Rifles (17 Ill Adm Code 660)  
-First Notice Published: 21 Ill Reg 3823 - 3/28/97  
-Expiration of Second Notice Period: 6/27/97
36. White-Tailed Deer Hunting Season by Use of Handguns (17 Ill Adm Code 680)  
-First Notice Published: 21 Ill Reg 4285 - 4/4/97  
-Expiration of Second Notice Period: 7/4/97
37. Squirrel Hunting (17 Ill Adm Code 690)  
-First Notice Published: 21 Ill Reg 4263 - 4/4/97  
-Expiration of Second Notice Period: 7/4/97

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38. The Taking of Wild Turkeys - Fall Gun Season (17 Ill Adm Code 715)  
-First Notice Published: 21 Ill Reg 4279 - 4/4/97  
-Expiration of Second Notice Period: 7/4/97
39. The Taking of Wild Turkeys - Fall Archery Season (17 Ill Adm Code 720)  
-First Notice Published: 21 Ill Reg 4271 - 4/4/97  
-Expiration of Second Notice Period: 7/4/97
40. Crow, Woodcock, Snipe, Rail and Teal Hunting (17 Ill Adm Code 740)  
-First Notice Published: 21 Ill Reg 4206 - 4/4/97  
-Expiration of Second Notice Period: 7/4/97
41. Boat and Snowmobile Registration and Safety (17 Ill Adm Code 2010)  
-First Notice Published: 21 Ill Reg 3803 - 3/28/97  
-Expiration of Second Notice Period: 6/27/97
42. Snowmobile Trail Establishment Fund Grant Program (17 Ill Adm Code 3020)  
-First Notice Published: 21 Ill Reg 3383 - 3/21/97  
-Expiration of Second Notice Period: 6/18/97
43. Americans with Disabilities Act Grievance Procedure (4 Ill Adm Code 1000)  
-First Notice Published: 21 Ill Reg 3348 - 3/21/97  
-Expiration of Second Notice Period: 6/18/97
- Northeastern Illinois Planning Commission
44. Fees for Reviewing Applications to Change the Boundaries of a Wastewater Facility Planning Area (35 Ill Adm Code 399)  
-First Notice Published: 21 Ill Reg 2558 - 2/21/97  
-Expiration of Second Notice Period: 7/4/97
- Public Aid
45. Rights and Responsibilities (89 Ill Adm Code 102)  
-First Notice Published: 21 Ill Reg 2924 - 3/7/97  
-Expiration of Second Notice Period: 6/19/97
46. Medical Assistance Programs (89 Ill Adm Code 120)  
-First Notice Published: 21 Ill Reg 3027 - 3/14/97  
-Expiration of Second Notice Period: 6/28/97



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47. Medical Payment (89 Ill Adm Code 140)  
-First Notice Published: 21 Ill Reg 3042 - 3/14/97  
-Expiration of Second Notice Period: 6/21/97
48. Hospital Services (89 Ill Adm Code 148)  
-First Notice Published: 21 Ill Reg 4965 - 4/18/97  
-Expiration of Second Notice Period: 7/16/97
- Rehabilitation Services
49. Eligibility (89 Ill Adm Code 682)  
-First Notice Published: 21 Ill Reg 2623 - 2/21/97  
-Expiration of Second Notice Period: 6/25/97
- Secretary of State
50. Regulations Under Illinois Securities Law of 1953 (14 Ill Adm Code 130)  
-First Notice Published: 21 Ill Reg 3570 - 3/21/97  
-Expiration of Second Notice Period: 6/21/97
51. Certificates of Title, Registration of Vehicles (92 Ill Adm Code 1010)  
-First Notice Published: 21 Ill Reg 4406 - 4/11/97  
-Expiration of Second Notice Period: 7/13/97
52. Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill Adm Code 1040)  
-First Notice Published: 21 Ill Reg 3060 - 3/14/97  
-Expiration of Second Notice Period: 7/2/97
- State Fire Marshal
53. Fire Prevention Safety Code (41 Ill Adm Code 100)  
-First Notice Published: 21 Ill Reg 1133 - 1/24/97  
-Expiration of Second Notice Period: 6/25/97
54. Policy and Procedures Manual for Fire Protection Personnel (41 Ill Adm Code 140)  
-First Notice Published: 21 Ill Reg 8116 - 6/21/96  
-Expiration of Second Notice Period: 7/2/97
55. Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 Ill Adm Code 170)  
-First Notice Published: 21 Ill Reg 2800 - 2/28/97

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- Expiration of Second Notice Period: 6/20/97
- Student Assistance Commission
56. General Provisions (23 Ill Adm Code 2700)  
-First Notice Published: 21 Ill Reg 1892 - 2/14/97  
-Expiration of Second Notice Period: 7/25/97
57. Federal Family Education Loan Program (FFELP) (23 Ill Adm Code 2720)  
-First Notice Published: 21 Ill Reg 1863 - 2/14/97  
-Expiration of Second Notice Period: 7/25/97
58. Repeal of Alternative Loan Program (23 Ill Adm Code 2721)  
-First Notice Published: 21 Ill Reg 1818 - 2/14/97  
-Expiration of Second Notice Period: 7/10/97
59. Alternative Loan Program (23 Ill Adm Code 2721)  
-First Notice Published: 21 Ill Reg 1824 - 2/14/97  
-Expiration of Second Notice Period: 7/25/97
60. Repeal of Illinois National Guard Grant Program (23 Ill Adm Code 2730)  
-First Notice Published: 21 Ill Reg 1955 - 2/14/97  
-Expiration of Second Notice Period: 7/10/97
61. Illinois National Guard Grant Program (23 Ill Adm Code 2730)  
-First Notice Published: 21 Ill Reg 1962 - 2/14/97  
-Expiration of Second Notice Period: 7/25/97
62. Repeal of Grant Program for Dependents of Correctional Officers (23 Ill Adm Code 2731)  
-First Notice Published: 21 Ill Reg 1928 - 2/14/97  
-Expiration of Second Notice Period: 7/10/97
63. Grant Program for Dependents of Correctional Officers (23 Ill Adm Code 2731)  
-First Notice Published: 21 Ill Reg 1935 - 2/14/97  
-Expiration of Second Notice Period: 6/18/97
64. Repeal of Grant Program for Dependents of Police or Fire Officers (23 Ill Adm Code 2732)  
-First Notice Published: 21 Ill Reg 1914 - 2/14/97  
-Expiration of Second Notice Period: 7/10/97

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65. Grant Program for Dependents of Police or Fire Officers (23 Ill Adm Code 2732)  
-First Notice Published: 21 Ill Reg 1921 - 2/14/97  
-Expiration of Second Notice Period: 6/18/97
66. Repeal of Illinois Veteran Grant (IVG) Program (23 Ill Adm Code 2733)  
-First Notice Published: 21 Ill Reg 1985 - 2/14/97  
-Expiration of Second Notice Period: 7/10/97
67. Illinois Veteran Grant (IVG) Program (23 Ill Adm Code 2733)  
-First Notice Published: 21 Ill Reg 1993 - 2/14/97  
-Expiration of Second Notice Period: 6/19/97
68. Repeal of Monetary Award Program (MAP) (23 Ill Adm Code 2735)  
-First Notice Published: 21 Ill Reg 2048 - 2/14/97  
-Expiration of Second Notice Period: 7/10/97
69. Monetary Award Program (MAP) (23 Ill Adm Code 2735)  
-First Notice Published: 21 Ill Reg 2062 - 2/14/97  
-Expiration of Second Notice Period: 6/21/97
70. Repeal of Illinois Incentive for Access (IIA) Program (23 Ill Adm Code 2736)  
-First Notice Published: 21 Ill Reg 1942 - 2/14/97  
-Expiration of Second Notice Period: 7/10/97
71. Illinois Incentive for Access (IIA) Program (23 Ill Adm Code 2736)  
-First Notice Published: 21 Ill Reg 1948 - 2/14/97  
-Expiration of Second Notice Period: 6/21/97
72. Repeal of Robert C. Byrd Honors Scholarship Program (23 Ill Adm Code 2755)  
-First Notice Published: 21 Ill Reg 2093 - 2/14/97  
-Expiration of Second Notice Period: 7/10/97
73. Robert C. Byrd Honors Scholarship Program (23 Ill Adm Code 2755)  
-First Notice Published: 21 Ill Reg 2102 - 2/14/97  
-Expiration of Second Notice Period: 6/22/97
74. Repeal of State Scholar Program (23 Ill Adm Code 2760)  
-First Notice Published: 21 Ill Reg 2111 - 2/14/97  
-Expiration of Second Notice Period: 7/10/97

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75. State Scholar Program (23 Ill Adm Code 2760)  
-First Notice Published: 21 Ill Reg 2120 - 2/14/97  
-Expiration of Second Notice Period: 6/29/97
76. Repeal of Merit Recognition Scholarship (MRS) Program (23 Ill Adm Code 2761)  
-First Notice Published: 21 Ill Reg 2019 - 2/14/97  
-Expiration of Second Notice Period: 7/10/97
77. Merit Recognition Scholarship (MRS) Program (23 Ill Adm Code 2761)  
-First Notice Published: 21 Ill Reg 2025 - 2/14/97  
-Expiration of Second Notice Period: 6/29/97
78. Repeal of Paul Douglas Teacher Scholarship Program (23 Ill Adm Code 2762)  
-First Notice Published: 21 Ill Reg 2076 - 2/14/97  
-Expiration of Second Notice Period: 7/10/97
79. Paul Douglas Teacher Scholarship Program (23 Ill Adm Code 2762)  
-First Notice Published: 21 Ill Reg 2084 - 2/14/97  
-Expiration of Second Notice Period: 7/13/97
80. Repeal of Minority Teachers of Illinois (MTI) Scholarship Program (23 Ill Adm Code 2763)  
-First Notice Published: 21 Ill Reg 2031 - 2/14/97  
-Expiration of Second Notice Period: 7/10/97
81. Minority Teachers of Illinois (MTI) Scholarship Program (23 Ill Adm Code 2763)  
-First Notice Published: 21 Ill Reg 2040 - 2/14/97  
-Expiration of Second Notice Period: 7/11/97
82. Repeal of David A. Debolt Teacher Shortage Scholarship Program (23 Ill Adm Code 2764)  
-First Notice Published: 21 Ill Reg 1846 - 2/14/97  
-Expiration of Second Notice Period: 7/10/97
83. David A. Debolt Teacher Shortage Scholarship Program (23 Ill Adm Code 2764)  
-First Notice Published: 21 Ill Reg 1854 - 2/14/97  
-Expiration of Second Notice Period: 7/13/97

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84. Repeal of Illinois Special Education Teacher Tuition Waiver Program (23 Ill Adm Code 2765)  
-First Notice Published: 21 Ill Reg 1970 - 2/14/97  
-Expiration of Second Notice Period: 7/10/97
85. Illinois Special Education Teacher Tuition Waiver Program (23 Ill Adm Code 2765)  
-First Notice Published: 21 Ill Reg 1977 - 2/14/97  
-Expiration of Second Notice Period: 7/13/97
86. Repeal of Student to Student (STS) Program of Matching Grants (23 Ill Adm Code 2770)  
-First Notice Published: 21 Ill Reg 2128 - 2/14/97  
-Expiration of Second Notice Period: 7/10/97
87. Student to Student (STS) Program of Matching Grants (23 Ill Adm Code 2770)  
-First Notice Published: 21 Ill Reg 2133 - 2/14/97  
-Expiration of Second Notice Period: 6/29/97
88. Repeal of College Savings Bond Bonus Incentive Grant (BIG) Program (23 Ill Adm Code 2771)  
-First Notice Published: 21 Ill Reg 1829 - 2/14/97  
-Expiration of Second Notice Period: 7/10/97
89. College Savings Bond Bonus Incentive Grant (BIG) Program (23 Ill Adm Code 2771)  
-First Notice Published: 21 Ill Reg 1837 - 2/14/97  
-Expiration of Second Notice Period: 6/29/97
90. Limitations, Suspension and Termination Proceedings (23 Ill Adm Code 2790)  
-First Notice Published: 21 Ill Reg 2002 - 2/14/97  
-Expiration of Second Notice Period: 7/2/97

Trustees of the University of Illinois

91. Joint Rules of the Board of Regents, the Board of Governors of State Colleges and Universities, the Board of Trustees of the University of Illinois, and the Board of Trustees of Southern Illinois University: Procurement and Bidding (44 Ill Adm Code 525)  
-First Notice Published: 21 Ill Reg 3081 - 3/14/97  
-Expiration of Second Notice Period: 6/25/97

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER  
ROOM 16-503  
CHICAGO, ILLINOIS  
10:30 A.M..  
JUNE 17, 1997

EMERGENCY AND PEREMPTORY RULEMAKINGSAgriculture

92. Meat and Poultry Inspection Act (8 Ill Adm Code 125) (Peremptory)  
-Notice Published: 21 Ill Reg 6609 - 5/30/97

Secretary of State

93. The Use of The Capitol Complex Facilities (71 Ill Adm Code 2005) (Emergency)  
-Notice Published: 21 Ill Reg 6927 - 6/6/97



JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of May 27, 1997 through June 2, 1997 and have been scheduled for review by the Committee at its June 17, 1997 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
7/10/97	Illinois Student Assistance Commission, Repeal of Alternative Loan Program (23 Ill Adm Code 2721)	2/14/97 21 Ill Reg 1818	6/17/97
7/10/97	Illinois Student Assistance Commission, Repeal of Illinois National Guard Grant Program (23 Ill Adm Code 2730)	2/14/97 21 Ill Reg 1955	6/17/97
7/10/97	Illinois Student Assistance Commission, Repeal of Grant Program for Dependents of Correctional Officers (23 Ill Adm Code 2731)	2/14/97 21 Ill Reg 1928	6/17/97
7/10/97	Illinois Student Assistance Commission, Repeal of Grant Program for Dependents of Police or Fire Officers (23 Ill Adm Code 2732)	2/14/97 21 Ill Reg 1914	6/17/97
7/10/97	Illinois Student Assistance Commission, Repeal of Illinois Veteran Grant (IVG) Program (23 Ill Adm Code 2733)	2/14/97 21 Ill Reg 1985	6/17/97
7/10/97	Illinois Student Assistance Commission, Repeal of Monetary Award Program (MAP) (23 Ill Adm Code 2735)	2/14/97 21 Ill Reg 2048	6/17/97
7/10/97	Illinois Student Assistance Commission, Repeal of Illinois Incentive for Access (IIA) Program (23 Ill Adm Code 2736)	2/14/97 21 Ill Reg 1942	6/17/97
7/10/97	Illinois Student Assistance Commission, Repeal of Robert C. Byrd Honors Scholarship Program (23 Ill Adm Code 2755)	2/14/97 21 Ill Reg 2093	6/17/97

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
7/10/97	Illinois Student Assistance Commission, Repeal of State Scholar Program (23 Ill Adm Code 2760)	2/14/97 21 Ill Reg 2111	6/17/97
7/10/97	Illinois Student Assistance Commission, Repeal of Merit Recognition Scholarship (MRS) Program (23 Ill Adm Code 2761)	2/14/97 21 Ill Reg 2019	6/17/97
7/10/97	Illinois Student Assistance Commission, Repeal of Minority Teachers of Illinois (MTI) Scholar-ship Program (23 Ill Adm Code 2763)	2/14/97 21 Ill Reg 2031	6/17/97
7/10/97	Illinois Student Assistance Commission, Repeal of Paul Douglas Teacher Scholarship Program (23 Ill Adm Code 2762)	2/14/97 21 Ill Reg 2076	6/17/97
7/10/97	Illinois Student Assistance Commission, Repeal of David A. Debolt Teacher Shortage Scholarship Program (23 Ill Adm Code 2764)	2/14/97 21 Ill Reg 1846	6/17/97
7/10/97	Illinois Student Assistance Commission, Repeal of Illinois Special Education Teacher Tuition Waiver Program (23 Ill Adm Code 2765)	2/14/97 21 Ill Reg 1970	6/17/97
7/10/97	Illinois Student Assistance Commission, Repeal of Student to Student (STS) Program of Matching Grants (23 Ill Adm Code 2770)	2/14/97 21 Ill Reg 2128	6/17/97
7/10/97	Illinois Student Assistance Commission, Repeal of College Savings Bond Bonus Incentive Grant (BIG) Program (23 Ill Adm Code 2771)	2/14/97 21 Ill Reg 1829	6/17/97
7/10/97	Office of Banks and Real Estate, Blacklist Dis-crimination (38 Ill Adm Code 302)	4/4/97 21 Ill Reg 4294	6/17/97
7/10/97	Office of Banks and Real Estate, Bank Branches (38 Ill Adm Code 305)	4/4/97 21 Ill Reg 4290	6/17/97

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

7/10/97	Office of Banks and Real Estate, Calculation, Assessment and Collection of Periodic Fees (38 Ill Adm Code 375)	4/4/97 21 Ill Reg 4298	6/17/97	7/10/97	Illinois Student Assistance Commission, Paul Douglas Teacher Scholarship Program (23 Ill Adm Code 2762)	2/14/97 21 Ill Reg 2084	6/17/97
7/10/97	Office of Banks and Real Estate, Eligible State Bank (38 Ill Adm Code 380)	4/4/97 21 Ill Reg 4303	6/17/97	7/13/97	Illinois Student Assistance Commission, David A. Debolt Teacher Shortage Scholarship Program (23 Ill Adm Code 2764)	2/14/97 21 Ill Reg 1854	6/17/97
7/11/97	Illinois Commerce Commission, Confidential Contracts (83 Ill Adm Code 335)	3/28/97 21 Ill Reg 3787	6/17/97	7/13/97	Illinois Student Assistance Commission, Illinois Special Education Teacher Tuition Waiver Program (23 Ill Adm Code 2765)	2/14/97 21 Ill Reg 1977	6/17/97
7/11/97	Illinois Health Care Cost Containment Council, Data Collection (77 Ill Adm Code 2510)	3/14/97 21 Ill Reg 3023	6/17/97	7/16/97	Department of Employment Security, Claims, Adjudication, Appeals and Hearings (56 Ill Adm Code 2720)	4/4/97 21 Ill Reg 4105	6/17/97
7/11/97	Illinois Student Assistance Commission, Minority Teachers of Illinois (MTI) Scholarship Program (23 Ill Adm Code 2763)	2/14/97 21 Ill Reg 2040	6/17/97	7/16/97	Department of Public Aid, Hospital Services (89 Ill Adm Code 148)	4/18/97 21 Ill Reg 4965	6/17/97
7/13/97	Department on Aging, Older Americans Act Programs (89 Ill Adm Code 230)	11/15/96 20 Ill Reg 14668	6/17/97				
7/13/97	Department on Aging, Elder Rights (89 Ill Adm Code 270)	11/15/96 20 Ill Reg 14662	6/17/97				
7/13/97	Department of Employment Security, Employment (56 Ill Adm Code 2732)	4/4/97 21 Ill Reg 4120	6/17/97				
7/13/97	Department of Employment Security, General Application (56 Ill Adm Code 2712)	4/4/97 21 Ill Reg 4136	6/17/97				
7/13/97	Secretary of State, Certificates of Title, Registration of Vehicles (92 Ill Adm Code 1010)	4/11/97 21 Ill Reg 4406	6/17/97				
7/13/97	State Board of Elections, The Campaign Financing Act (26 Ill Adm Code 100)	3/14/97 21 Ill Reg 3017	6/17/97				

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

## PROCLAMATIONS

97-298

## ACCESS LIVING DAY

Whereas, the largest minority in the United States is Americans living with a disability, of whom 1,500,000 live in Illinois; and

Whereas, the Department of Rehabilitation Services is working to make Illinois the nation's most accessible state through advocacy, education, training and direct services for people with disabilities of all ages in all aspects of life; and

Whereas, Access Living, an organization involved in education and advocacy efforts, which is governed and staffed primarily by people with disabilities, shares the State of Illinois' goal of independence, empowerment and inclusion of people with disabilities; and

Whereas, Access Living cultivates the dignity, pride and self-esteem of people with disabilities and enhances the opportunities open to them by offering peer-oriented independent living services, public education and awareness, individual and systemic advocacy and the constant enforcement of civil rights on behalf of people with disabilities; and

Whereas, for the past 17 years, Access Living has served nearly 3,000 people annually through its innovative programs within the community; and

Whereas, Access Living's 1997 "Access to the World of Chance" Performance Benefit will feature The Joffrey Ballet of Chicago, Dance>Detour and Bryant Ballet in a program that unites dancers with and without wheelchairs on May 22, 1997;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 22, 1997, as ACCESS LIVING DAY in Illinois.

Issued by the Governor May 15, 1997.

Filed by the Secretary of State May 23, 1997.

97-299

## EDWARD L. STEWART FAMILY EXTENDED DEEPEST SYMPATHY

Whereas, Edward L. Stewart served the people of the State of Illinois for almost 30 years prior to his retirement from the Illinois Department of Corrections in 1988; and

Whereas, Mr. Stewart also served as an Executive Board Member of the AFSCME Illinois and the AFSCME International retiree programs, in addition to serving as an Executive Board member of the Illinois State Council of Senior Citizens; and

Whereas, Edward L. Stewart served on the Board of Trustees of the State Employees' Retirement System as the annuitant member until the time of his death in March 1997; and

Whereas, Mr. Stewart's many contributions to the State of Illinois are greatly appreciated, and his service bears the hallmark of steadfast integrity, compassion and wisdom;

Therefore, I, Jim Edgar, Governor of the State of Illinois, extend deepest sympathy to Mr. Stewart's family and loved ones as they mourn his untimely death.

Issued by the Governor May 15, 1997.

Filed by the Secretary of State May 23, 1997.

97-300

## POPPY DAY

Whereas, millions of Americans who have fought to protect our country have died in battle; and

Whereas, we must remember those brave soldiers who lost their lives to preserve America's freedom; and

Whereas, the red poppy has been designated as a symbol of sacrifice of the lives lost in all wars; and

Whereas, the American Legion Auxiliary reminds Americans each year of the sacrifices of our soldiers and the distinction of the memorial flower;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 23, 1997, as POPPY DAY in Illinois in tribute to those who have sacrificed their lives in the name of freedom.

Issued by the Governor May 15, 1997.

Filed by the Secretary of State May 23, 1997.

97-301

GERMAN AMERICAN NATIONAL CONGRESS AURORA-FOX VALLEY  
CHAPTER 30TH ANNIVERSARY DAY

Whereas, the German American National Congress (DANK) Aurora-Fox Valley Chapter 30 was founded in 1967, encompassing Fox Valley and the far western suburbs; and

Whereas, DANK Aurora-Fox Valley Chapter 30 publishes a newsletter five times a year which they have done for the past nine years; and

Whereas, German American National Congress Aurora-Fox Valley Chapter 30 aims to preserve the German heritage through authentic festivals, dances and community involvement; and

Whereas, on May 17, 1997, there will be a Special 30th Anniversary Dinner Dance with the Egerlander Dance Group, where awards will be given to Thea Abbot, Werner Zoglauer, Rita Nemeth and William Fuchs for extraordinary contributions to the Chapter; and

Whereas, there will also be an induction ceremony recognizing honorary Germans to the Aurora-Fox Valley Chapter and special presentations from the National, Regional Officers and Chapter Historians will be made;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 17, 1997, as GERMAN AMERICAN NATIONAL CONGRESS AURORA-FOX VALLEY CHAPTER 30TH ANNIVERSARY DAY in Illinois.

Issued by the Governor May 15, 1997.

Filed by the Secretary of State May 23, 1997.

97-302

## GUNNERY SGT. DALE WAYNE PETERS COMMEMORATED

Whereas, Dale Wayne Peters was born on March 2, 1959, at Bethesda Naval Hospital, the son of Sandra Deuser and Garry Peters; and

Whereas, Dale graduated from Eberhardt Elementary School and Hubbard High School in Chicago, and was a member of the National Honor Society, the Senior Boys Council, the Student Council and the computer club; and

Whereas, he joined the Marine Corps after high school and reported for duty at MCRD San Diego on July 1, 1977; and



Whereas, he is the husband of Eva, a electronics technician for the Navy, and the father of Dale Jr. and Michaela Annette; and

Whereas, Dale Wayne Peters, now a Marine Corps Gunnery Sergeant, has served tours of duty including locations of MCB Twenty-nine Palms, CA; SNCO Academy, MCDPC Quantico, VA; and HQ MCGF Bn, Chesapeake, VA; and

Whereas, he is currently assigned as the Marine Cadre at NTC Great Lakes Police Department as a Police Trainer and Auxiliary Security Force NCOIC and will retire on June 30, 1997;

Therefore, I, Jim Edgar, Governor of the State of Illinois, commend Gunnery Sgt. Dale Wayne Peters for the selfless dedication and hard work that he has exhibited during his lifetime on behalf of the Marine Corps and the citizens of the United States of America.

Issued by the Governor May 15, 1997.

Filed by the Secretary of State May 23, 1997.

#### 97-303

##### HOLY FAMILY VILLA DAY

Whereas, the Holy Family Villa in Lemont, Illinois, was founded by the Lithuanian Catholic Charities of American, under the direction of Father Anicetus Linkus, on July 4, 1947; and

Whereas, The Catholic Charities of the Archdiocese of Chicago maintains ownership and operation of the facility today; and

Whereas, Holy Family Villa has served thousands of senior citizens throughout Chicago and Southwestern Cook County for the past 50 years and looks forward to serving the elderly into the 21st century; and

Whereas, Holy Family Villa will hold its 50th Anniversary Gala Celebration on June 29, 1997, and will celebrate its 50th anniversary on July 4, 1997;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 4, 1997, as HOLY FAMILY VILLA DAY in Illinois.

Issued by the Governor May 16, 1997.

Filed by the Secretary of State May 23, 1997.

#### 97-304

##### STARLIGHT EXPRESS DAY

Whereas, the United States production of Andrew Lloyd Webber's triumphant musical "Starlight Express" premiered on September 14, 1993; and

Whereas, the Troika Organization and the cast and company of "Starlight Express" at the Las Vegas Hilton demonstrate the hard work, team spirit, skills, celebration of cultural diversity and determination essential for success; and

Whereas, the cast and company of the United States production of "Starlight Express" are positive role models for the youth of the state and nation; and

Whereas, the Andrew Lloyd Webber musical production "Starlight Express" communicates to children of all ages and from all cultures the message that everyone can achieve his or her potential by looking within themselves; and

Whereas, the guiding principles of "Starlight Express" help to motivate, inspire, and improve the personal, social and academic growth of youth as future productive citizens of our state and nation;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim

August 17, 1997, as STARLIGHT EXPRESS DAY in Illinois.

Issued by the Governor May 16, 1997.

Filed by the Secretary of State May 23, 1997.

#### 97-305

##### BILL BROWN DAY

Whereas, since 1983, the business products industry has adopted City of Hope as its leading charitable cause; and

Whereas, each year, City of Hope bestows "The Spirit of Life" Award upon a leader in the industry who has shown exceptional volunteer spirit; and

Whereas, this award has become the industry's highest form of recognition;

and Whereas, this year, Bill Brown is the recipient of the 1997 "Spirit of Life" Award; and

Whereas, as founder and chief executive officer of Bill Brown Sales Company and A.L.P., Mr. Brown has been influential in making A.L.P. a leader in energy conservation and the quality efficient lighting movement; and

Whereas, Bill Brown is also involved in many other organizations, including serving as a member of the International Commission of Illumination, the B'nai B'rith Youth Organization and recently serving a term on the Board of Directors of the Illuminating Engineering Society of North America; and Whereas, it is right and proper that he be recognized for his hard work and dedication to the City of Hope;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 17, 1997, as BILL BROWN DAY in Illinois.

Issued by the Governor May 19, 1997.

Filed by the Secretary of State May 23, 1997.

#### 97-306

##### ELVIN KLASKA CONGRATULATED

Whereas, Long Creek, Illinois, became an incorporated village in 1980; and Whereas, Elvin Klaska has served as village mayor of Long Creek since its inception; and

Whereas, Elvin Klaska has been a pillar of Long Creek, working diligently to improve the community by playing an important role in getting amenities such as a fire department, cable, gas and water; and

Whereas, Elvin and his wife, Lucille, are the parents of Carol Sue Hundley and Roger Klaska, and have eight grandchildren and four great-grandchildren; and

Whereas, Elvin Klaska will retire after 17 years of service to his community as the first and only mayor of Long Creek; Therefore, I, Jim Edgar, Governor of the State of Illinois, extend sincere congratulations to Elvin on reaching this milestone and best wishes in future endeavors.

Issued by the Governor May 19, 1997.

Filed by the Secretary of State May 23, 1997.

#### 97-307

##### MAHOMETT-SEYMOUR WRESTLING TEAM CONGRATULATED

Whereas, the Mahomet-Seymour wrestling team is comprised of dedicated individuals who are focused on becoming the best student athletes they can; and Whereas, the 1996-97 Mahomet-Seymour wrestling team, coached by Rob Porter and assistants Steve Combs and Steve Echols, compiled a team record of 23 wins and 1 loss, winning both regionals and sectionals and placing third in the state; and

Whereas, the 1996-97 Mahomet-Seymour wrestling team set a state record by having the most take-downs (1,394) by a team in a season; and Whereas, the 1996-97 Mahomet-Seymour wrestling team had eight individuals go to state, with five members placing, three of whom were individual champions; and

Whereas, Chris Kolopanis, Ryan Berger and John Lockhart each placed first as individuals at the state competition, and have been nominated for U.S.A. Wrestling All-American honors;

Therefore, I, Jim Edgar, Governor of the State of Illinois, extend sincere congratulations to the Mahomet-Seymour wrestling team and commend them for their hard work and dedication.

Issued by the Governor May 19, 1997.

Filed by the Secretary of State May 23, 1997.

97-308

#### WALLACE AND ALICE STANTON CONGRATULATED

Whereas, Wallace and Alice Stanton were married July 7, 1947, in Chicago, Illinois; and

Whereas, Wallace and Alice have six daughters; Regina Shoats, Jacqueline Burton, Patricia Tanner, Theresa Ray, Barbara Smith and Berthena Gordon; and Whereas, Wallace and Alice also have 10 grandchildren and six great-grandchildren; and

Whereas, Wallace and Alice have been active in their community, serving for more than 30 years as members of the Salvation Army Midwest Corp. on the west side of Chicago; and

Whereas, Wallace and Alice Stanton have lived in the same community for over 30 years; and

Whereas, Wallace and Alice Stanton will celebrate their 50th wedding anniversary July 7, 1997;

Therefore, I, Jim Edgar, Governor of the State of Illinois, extend best wishes and sincere congratulations to Wallace and Alice Stanton on their golden anniversary.

Issued by the Governor May 19, 1997.

Filed by the Secretary of State May 23, 1997.

97-309

#### AMERICAN GI FORUM DAYS

Whereas, thousands of Latino Americans served our country in World War II, returning home only to face denial of their rights as veterans and the basic American freedoms for which they had fought so hard; and

Whereas, the American GI Forum is the nation's largest Hispanic veterans organization, serving both veterans and their communities for more than 40 years; and

Whereas, the American GI Forum is devoted to furthering the interests of

Americans of Mexican descent and has participated in projects and programs in Mexican-American communities throughout Illinois; and

Whereas, the activities of the American GI Forum are a source of pride to all citizens of Mexican-American descent as the organization works to enhance the quality of life and create new opportunities for growth and development; and

Whereas, the American GI Forum is celebrating its 42nd Annual State Convention on June 27-28;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 27-28, 1997, as AMERICAN GI FORUM DAYS in Illinois and urge all our citizens to recognize the valuable contributions of our Latino veterans.

Issued by the Governor May 20, 1997.

Filed by the Secretary of State May 23, 1997.

97-310

#### JOLIET AREA/SOUTH SUBURBAN CHAPTER-DELTA SIGMA THETA SORORITY, INC. 40TH ANNUAL EBONY FASHION FAIR

Whereas, the Joliet Area/South Suburban Chapter of Delta Sigma Theta Sorority, Inc. is welcoming the 40th Annual Premier Showing of the Ebony Fashion Fair; and

Whereas, the Joliet Area/South Suburban Chapter has sponsored the premier showing since 1975; and

Whereas, Delta Sigma Theta Sorority, Inc. was founded in 1913 with emphasis in education and scholarship, physical and mental health, economic development, political awareness and international awareness; and

Whereas, Delta Sigma Theta Sorority, Inc. is comprised of 190,000 women around the world, 3,000 of which are active in the State of Illinois; and

Whereas, these 3,000 college-educated sorors hold key leadership positions and are very dedicated to public service in their communities; and Whereas, the Joliet Area/South Suburban Chapter remains committed to its youth and tonight's show will provide scholarships and continuous involvement in the community;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 10, 1997, as JOLIET AREA/SOUTH SUBURBAN CHAPTER-DELTA SIGMA THETA SORORITY, INC. 40TH ANNUAL PREMIER SHOWING OF THE EBONY FASHION FAIR in Illinois.

Issued by the Governor May 20, 1997.

Filed by the Secretary of State May 23, 1997.

97-311

#### LAKE FOREST PLACE DAY

Whereas, on June 1, 1997, Presbyterian Homes will dedicate the cornerstone of the new continuing care retirement community, Lake Forest Place, in Lake Forest, Illinois; and

Whereas, Presbyterian Homes is committed to providing a nurturing and caring environment in all of its communities; and

Whereas, Presbyterian Homes offers innovative programs and services and uses its resources and leadership to benefit the well being of older persons; and

Whereas, for over 90 years, Presbyterian Homes has been a leader in

providing retirement services in the State of Illinois, and now embarks upon this new venture;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 1, 1997, as LAKE FOREST PLACE DAY in Illinois.

Issued by the Governor May 20, 1997.

Filed by the Secretary of State May 23, 1997.

97-312

**LOUIS M. LUTOSTANSKI, SR. DAY**

Whereas, Louis M. Lutostanski, Sr. was born on May 23, 1932, to John and Justina Lutostanski of Zeigler, Illinois, was seventh of eight children, and learned the value of hard work, determination and ambition in his formative years; and

Whereas, Louis, after honorably serving his country in the United States Navy, in foreign and domestic waters, furthered his career goals as a graduate of the University of Illinois; and

Whereas, Louis and his wife, the former Mary Ann Chiodini, have been married for 39 years and have six children and 10 grandchildren; and

Whereas, Louis began his business career in 1960 at Vickers' Electronics Product Division as Manager of Market Research and Planning until 1966, when he joined Monsanto; and

Whereas, Louis embarked on a new career in 1969, establishing TRI-ONICS, which has expanded under his leadership to include markets worldwide, including Australia, Italy, Argentina, South America, England, and many others; and

Whereas, Louis guided TRI-ONICS over nearly three decades and through his dedication and tenacity created a successful business with 39 employees; and

Whereas, Louis has been recognized by the industry for leadership and contributions to business, being named president of Highland Manufacturer's Association, serving on the board of directors of the American Association of Industrial Manufacturing, and the Illinois Right to Work board; and

Whereas, Louis will retire from his position at TRI-ONICS and family, friends and colleagues are recognizing and celebrating his achievements;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 24, 1997, as LOUIS M. LUTOSTANSKI, SR. DAY in Illinois.

Issued by the Governor May 20, 1997.

Filed by the Secretary of State May 23, 1997.

97-313

**MEMORIAL DAY**

Whereas, on May 26, 1997, the nation will celebrate Memorial Day; and

Whereas, Memorial Day is a day to remember the brave men and women who have served and defended the United States; and

Whereas, throughout our country's history, brave Americans have risked their lives to defend democracy; and

Whereas, on Memorial Day, it is important that we pay tribute to those who have selflessly served our country;

Therefore, I, Jim Edgar, Governor of the State of Illinois, recognize May 26, 1997, as MEMORIAL DAY in honor of the men and women who have defended the United States of America throughout our history.

Issued by the Governor May 20, 1997.

Filed by the Secretary of State May 23, 1997.

97-314

**SAINT ANTHONY HOSPITAL DAY**

Whereas, the cornerstone for Saint Anthony Hospital was placed in 1897 for a facility offering medical and surgical services; and

Whereas, Saint Anthony Hospital has a 100-year history of serving the various immigrant groups of the Pilsen Little Village, Back of the Yards and Lawndale neighborhoods; and

Whereas, The Friends of Saint Anthony is a volunteer group dedicated to promoting awareness of the philanthropic activities of Saint Anthony Hospital; and

Whereas, a gala 100th anniversary celebration, "Another Century of Service," sponsored by The Friends of Saint Anthony, will benefit Programa C.I.E.L.O., an outreach program at Saint Anthony Hospital;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 14, 1997, as SAINT ANTHONY HOSPITAL DAY in Illinois in recognition of the historic significance of this 100th Year Anniversary Celebration.

Issued by the Governor May 20, 1997.

Filed by the Secretary of State May 23, 1997.

97-315

**CLERGY APPRECIATION DAY**

Whereas, this nation was built on a foundation of faith in God, fostered by a belief that it is only through divine guidance and hard work that success can be achieved; and

Whereas, more than 375,000 pastors in America dedicate themselves daily to strengthening the spiritual and moral foundation of communities across the United States, acting as disciples of faith and spreading the word of God; and

Whereas, the countless souls touched through their ministry have put into practice the ideals of neighbor helping neighbor which have bound us together in the spirit of unity and brotherhood, sustaining us in times of hardship and success; and

Whereas, the future holds much promise as these faithful servants continue their service to mankind in the true spirit of discipleship;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 12, 1997, as CLERGY APPRECIATION DAY in Illinois and urge all citizens to recognize the importance of their spiritual leadership in the continued growth of our state and nation.

Issued by the Governor May 21, 1997.

Filed by the Secretary of State May 23, 1997.

97-316

**ECC MUSIC WORKSHOP WEEK**

Whereas, the ECC Music Workshop will hold its 10th annual workshop from July 7-11, 1997, at Kennedy King College in Chicago; and

Whereas, the theme for this year's workshop is "United, Coming Together as One;" and

Whereas, the Chicago Mass Choir, a component of the ECC Music Workshop,



has consistently placed on Billboard for each of its recordings, bringing recognition to the City of Chicago and the State of Illinois; and

Whereas, the ECC Music Workshop will hold an awards ceremony at the end of the workshop to honor gospel pioneers who are natives of Chicago;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 7-11, 1997, as ECC MUSIC WORKSHOP WEEK in Illinois.

Issued by the Governor May 21, 1997.

Filed by the Secretary of State May 23, 1997.

97-317

#### HIGHWAY TRANSPORTATION SAFETY WEEK

Whereas, everyone in the State of Illinois depends on our roads and highways for personal transportation and for the delivery of goods and services; and

Whereas, automobiles and commercial vehicles must travel safely on the same roads and highways; and

Whereas, there are far too many highway crashes each year, taking lives, causing countless injuries and damaging property; and

Whereas, the Illinois State Police is joining the U.S. Department of Transportation's Federal Highway Administration and safety agencies throughout the United States, Canada and Mexico in a special commercial motor vehicle safety effort to reduce crashes;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 2-7, 1997, as HIGHWAY TRANSPORTATION SAFETY WEEK in Illinois.

Issued by the Governor May 21, 1997

Filed by the Secretary of State May 23, 1997.

97-318

#### MS. DINNER OF CHAMPIONS DAY

Whereas, multiple sclerosis (MS), a neurological disease of the central nervous system, is the number one disabling disease of women and men between the ages of 20 and 40; and

Whereas, each year, 10,000 new cases of MS are diagnosed, and an estimated 350,000 people nationwide have MS; and

Whereas, through contributions and fundraising events such as the MS DINNER OF CHAMPIONS', Chicago-Greater Illinois Chapter of the National MS Society seeks to increase public awareness and financial support for research and programs and services for the 10,000 people in Illinois who have MS; and

Whereas, the MS DINNER OF CHAMPIONS' recognizes honorees for their outstanding humanitarian endeavors and dedication to others;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 1, 1997, as MS DINNER OF CHAMPIONS' DAY in Illinois and urge all citizens to show their support for multiple sclerosis research and programs.

Issued by the Governor May 21, 1997.

Filed by the Secretary of State May 23, 1997.

97-319

#### RICHARD S. PEPPER DAY

Whereas, The Pepper Companies, Inc., founded in 1927, is one of the

largest building contractors in the country; and

Whereas, Richard S. Pepper is the Chairman of the Board of The Pepper Companies, Inc., and he has long been a leader in the construction industry; and

Whereas, Richard S. Pepper has served the construction industry in capacities such as Past National President of the Associated General Contractors (AGC) of America, President of the AGC Research and Education Foundation, Past Chairman of the National Construction Industry Council, Past Trustee and Treasurer of the Chicago & Northeast Illinois District Council of Carpenters Welfare and Pension Trust Funds and many more; and

Whereas, under the leadership of Mr. Richard S. Pepper, The Pepper Companies, Inc. will receive the "Contractor of the Year" award, given for outstanding community service, at the Coalition For United Community Action's 25th Annual Unity Testimonial Awards on May 31, 1997;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 31, 1997, as RICHARD S. PEPPER DAY in Illinois.

Issued by the Governor May 21, 1997.

Filed by the Secretary of State May 23, 1997.

97-320

#### ARCHITECTURE WEEK

Whereas, Illinois was the first state in the nation to professionally recognize the practice of architecture; and

Whereas, Illinois architects have been leaders in the development of 20th century architecture, influencing architecture across the nation and around the world; and

Whereas, the first week of June marks the precise centennial of the passage of the Illinois Architecture Act of 1897; and

Whereas, in recognition of the centennial of the passage of this act, the AIA Illinois has developed a video production that highlights some of Illinois' most important works of architecture and the architects who created them;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 1-7, 1997, as ARCHITECTURE WEEK in Illinois.

Issued by the Governor May 22, 1997.

Filed by the Secretary of State May 30, 1997.

97-321

#### CLARENCE ELLIS, SR. DAY

Whereas, Clarence Ellis, Sr. graduated from A.N. & N. College at Pine Bluff, Arkansas, and later received his Master's of Science degree from Sangamon State University; and

Whereas, Mr. Ellis began his tenure in the East St. Louis School District #189 in 1960, when he taught at the Monroe Manual Training School. Mr. Ellis went on to teach at Lansdown Jr. High and Lincoln Sr. High Schools; and

Whereas, Clarence has also served the East St. Louis School District as Assistant Principal of the Adult Education program, Assistant Principal of Hughes-Quinn/Rock Jr. High and Coordinator of the Early School Leavers Program; and

Whereas, Mr. Ellis is currently serving as the ESL Regional Vocational Education Director for School Districts #188 and #189; and

Whereas, Mr. Ellis has also been involved in civic activities such as the Economic Opportunity Commission and the Equal Rights Committee of East St. Louis; and

Whereas, Mr. Ellis also served as a member and volunteer on the Board of Directors for the Boys and Girls Club of East St. Louis as well as Chairman and Board Trustee for the State Community College; and

Whereas, Clarence Ellis, Sr. will retire on June 30, 1997, from the East St. Louis School District #189;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 30, 1997, as CLARENCE ELLIS, SR. DAY in Illinois and extend best wishes in future endeavors.

Issued by the Governor May 22, 1997.

Filed by the Secretary of State May 30, 1997.

97-322

**DR. RICHARD L. EDWARDS DAY**

Whereas, Richard L. Edwards was born on August 9, 1943; and

Whereas, Dr. Edwards has been a leader in the area of social work, particularly in educating social work professionals, in the United States as well as abroad; and

Whereas, Dr. Richard L. Edwards has served in multiple deanships, serving most recently as Dean of the School of Social Work at the University of North Carolina at Chapel Hill; and

Whereas, Dr. Richard L. Edwards has received numerous awards and honors, including the Distinguished Alumni Award from Rockefeller College of Public Affairs and Policy, State University of New York; co-recipient of the Achievement Award for Education from the Northern Ohio Live Magazine in Cleveland, Ohio; and Social Worker of the Year Award from the New York State Chapter of the National Association of Social Workers; and

Whereas, Dr. Richard L. Edwards is the recipient of the 1997 Edith Abbott Alumni Award from the University of Chicago's School of Social Service for distinguished service to society and for outstanding professional contributions at the local, national and international levels;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 7, 1997, as DR. RICHARD L. EDWARDS DAY in Illinois.

Issued by the Governor May 22, 1997.

Filed by the Secretary of State May 30, 1997.

97-323

**RICHARD R. HEIBERGER STUDIOS DAY**

Whereas, the Richard R. Heiberger Studios are committed to providing high quality arts instruction to persons from all segments of the community, regardless of age, ability, or financial circumstances; and

Whereas, the Richard R. Heiberger Studios are dedicated to providing instruction to foster creative and artistic expression at every level, from beginning to advanced study; and

Whereas, Richard R. Heiberger believes the arts can build bridges between people of different cultures and lifestyles, and that natural understanding is enhanced through sharing in study and performance; and

Whereas, the Richard R. Heiberger Studios value cooperation with the

greater arts community, both local and national, to foster and strengthen advocacy for arts education, enrich cultural life, and encourage artistic achievement; and

Whereas, July 1, 1997, marks the 20th anniversary of the Richard R. Heiberger Studios;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 1, 1997, as RICHARD R. HEIBERGER STUDIOS DAY in Illinois.

Issued by the Governor May 22, 1997.

Filed by the Secretary of State May 30, 1997.

97-324

**VALDAS V. ADAMKUS DAY**

Whereas, Val Adamkus is the longest-serving senior executive at EPA, having been Region 5's Administrator for the past 16 years with the responsibility of administering all air, water, hazardous waste management, and pollution control programs in Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin; and

Whereas, Val Adamkus has often represented EPA on environmental affairs in the former Soviet Union, the Baltic Countries and other eastern Bloc countries, and in 1974 was the first representative to be invited for a lecture tour in the Soviet Union; and

Whereas, in 1985, Adamkus received the Distinguished Executive Presidential Rank Award, the highest honor that can be bestowed upon a civil servant and has also received the EPA's highest award - the Gold Medal for Exceptional Service; and

Whereas, Val Adamkus has been conferred with several honorary degrees, including an honorary doctorate degree from the University of Vilnius in Lithuania, an honorary Doctor of Laws Degree from Calumet College of St. Joseph's in Indiana and an honorary Doctor of Laws Degree from Northwestern University in Evanston, Illinois; and

Whereas, since 1983, he has been chairman of the joint U.S. and Russian Federation work groups on water pollution science and technology issues, and he is the U.S. Chairman of the Great Lakes Water Quality Board and manager of the Great Lakes National Program; and

Whereas, Adamkus was awarded the EPA's first Fitzhugh Green Award for international efforts for pollution control and the Rachel Carson Great Lakes Award; and

Whereas, he has been instrumental in environmental problem-solving in Illinois, in partnership with Illinois and local communities, contributing to such achievements as the construction of the Chicago area's Deep Tunnel pollution and flood control project, the removal of 1 million pounds of PCBs from Waukegan Harbor, and the ongoing cleanup of radioactive wastes in West Chicago;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 30, 1997, as VALDAS V. ADAMKUS DAY in Illinois in honor of his 27-year EPA career.

Issued by the Governor May 22, 1997.

Filed by the Secretary of State May 30, 1997.

97-325

**CHIEF WILLIAM T. FITZPATRICK CONGRATULATED**



Whereas, Chief William T. Fitzpatrick was born on July 10, 1947, in Chicago, Illinois; and

Whereas, after graduating from Northern Illinois University, Chief Fitzpatrick began his career in law enforcement with the Rockford Police Department; and

Whereas, Chief Fitzpatrick received his Master's Degree in Criminology and Police Administration from the University of Keele in Staffordshire, England; and

Whereas, during his tenure in the Rockford Police Department, Chief Fitzpatrick has served as a patrol officer, detective, sergeant, lieutenant and has served as Chief on the Rockford Police Department since 1985; and

Whereas, under Chief Fitzpatrick's leadership, the department has grown to meet Rockford's changing needs with the development of a canine unit, community policing, a gang unit and a DUI task force; and

Whereas, Chief Fitzpatrick has been actively involved in the Illinois Association of Chiefs of Police, the International Association of Chiefs of Police, the Child Advocacy Project, the Rockford Area Substance Abuse Council, Inc. and Rotary; and

Whereas, in addition to his dedication to his career and community, Chief Fitzpatrick is a loving husband, father and grandfather; and

Whereas, Chief William T. Fitzpatrick will retire on July 10, 1997, after 26 years of honorable service to the Rockford Police Department;

Therefore, I, Jim Edgar, Governor of the State of Illinois, congratulate Chief Fitzpatrick for his many years of exemplary leadership in Rockford and extend best wishes for an enjoyable retirement.

Issued by the Governor May 27, 1997.

Filed by the Secretary of State May 30, 1997.

97-326

#### HELLENIC HERITAGE DAY

Whereas, Illinois is home to more than 250,000 Greek-Americans; and

Whereas, the Hellenic Heritage 1997 theme is "Hellenism, the Eternal Spirit of Civilization," celebrating 4,000 years of Hellenic culture and history, commemorating some of the greatest philosophers and statesmen of all times; and

Whereas, Dr. John N. Kalaras, Executive Chairman of the 1997 Hellenic Heritage parade, announced the parade will be held Sunday, June 1, 1997, in Greek Town, Chicago, Illinois; and

Whereas, for the past 100 years, Illinois' Greek American community has made significant contributions to the growth and vitality of our state; and

Whereas, the 1997 Greek Heritage Committee will sponsor a Greek Culture exhibit in the James R. Thompson Center June 23-27, 1997;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 1, 1997 as HELLENIC HERITAGE DAY in Illinois.

Issued by the Governor May 27, 1997.

Filed by the Secretary of State May 30, 1997.

97-327

#### MEN'S HEALTH WEEK

Whereas, the goal of National Men's Health Week is to raise national

awareness among society, and especially among men, of the importance of preventive health behavior in the early detection and treatment of health problems affecting men and their families; and

Whereas, despite the advances in medical technology and research, men continue to live an average of seven years less than women; and

Whereas, women visit the doctor three times more often than men, enabling them to detect health problems in their early stages; and

Whereas, significant numbers of male-related health problems, such as prostate cancer, testicular cancer, infertility, and colon cancer, could be detected and treated if men's awareness of these problems was more pervasive; and

Whereas, educating both the public and health care providers about the importance of early detection of male health problems will result in reducing rates of mortality from these diseases; and

Whereas, appropriate use of tests, such as Prostate Specific Antigen (PSA) exams, blood pressure screens, cholesterol screens, etc., in conjunction with clinical examination and self-testing for problems such as testicular cancer, provides detection in the early stages and increase the survival rate to nearly 100 percent; and

Whereas, many men are reluctant to visit their health center or physician for regular screening examinations of male-related problems for a variety of reasons, including fear, lack of information, and cost factors; and

Whereas, men who are educated about the value that preventive health can play in prolonging their lifespan and their role as a productive family member will be more likely to participate in health screening;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 9-15, 1997, as MEN'S HEALTH WEEK in Illinois.

Issued by the Governor May 27, 1997.

Filed by the Secretary of State May 30, 1997.

97-328

#### SILENT WITNESS DAY

Whereas, National Council of Jewish Women is a volunteer organization, inspired by Jewish values, that works through a program of research, education, advocacy and community service to improve the quality of life for women, children and families, and strives to ensure individual rights and freedoms for all; and

Whereas, National Council of Jewish Women in the Chicagoland area, in order to educate and raise awareness about domestic abuse, is sponsoring a Silent Witness Exhibit to honor those women who lost their lives violently at the hands of an abuser; and

Whereas, the Silent Witness Exhibit was executed by students from Homewood-Flossmoor and Evanston High Schools, who created life-sized silhouettes cut from plywood and painted red, and Northwestern University law students, who compiled the stories of the victims; and

Whereas, the Illinois Silent Witness Exhibit will be displayed for one week at the James R. Thompson Center in Chicago and then will travel throughout Illinois, and culminate by joining witnesses from all 50 states in Washington, D.C. as part of a national "March to End the Silence"; and

Whereas, on June 8, 1997, National Council of Jewish Women will sponsor a reception and public memorial service to commemorate the opening of the Silent



Witness Exhibit in Illinois;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 8, 1997, as SILENT WITNESS DAY in Illinois and congratulate National Council of Jewish Women on their efforts to raise awareness of the problem of domestic violence.

Issued by the Governor May 27, 1997.

Filed by the Secretary of State May 30, 1997.

#### 97-329

##### AMERICAN MEDICAL ASSOCIATION DAYS

Whereas, the American Medical Association (AMA) is a voluntary service organization of physicians whose mission is to promote the science and art of medicine and betterment of public health; and

Whereas, the AMA is the world's largest publisher of scientific and medical information, publishing *The Journal of the American Medical Association*, the world's most widely read medical journal; and

Whereas, the AMA and the Association of American Medical Colleges jointly sponsor the liaison committee which accredits M.D. programs in all U.S. and Canadian Medical Schools; and

Whereas, the AMA will celebrate its 150th anniversary during its annual meeting in Chicago, Illinois, with the theme, "Caring for the Country;"

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 20-24, 1997, as AMERICAN MEDICAL ASSOCIATION DAYS in Illinois.

Issued by the Governor May 28, 1997.

Filed by the Secretary of State May 30, 1997.

#### 97-330

##### MEMORIAL MEDICAL CENTER WEEK

Whereas, founded as Springfield Hospital and Training School in 1897, Memorial Medical Center began as a 12-bed facility; and

Whereas, Memorial Health System has grown into a regional health care provider serving all of central Illinois; and

Whereas, Memorial Medical Center has always received valuable support from numerous volunteers, physicians, members of the Board of Directors, employees and the community; and

Whereas, Memorial Medical Center is celebrating its centennial anniversary in 1997;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 1-7, 1997, as MEMORIAL MEDICAL CENTER WEEK in Illinois.

Issued by the Governor May 28, 1997.

Filed by the Secretary of State May 30, 1997.

Rules acted upon during the quarter of April 1 through June 30, 1997 (Issues 17-28) are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 4401 published in Issue 40 will be listed as 50-4401-2. The letter "R" designates a rule that is being repealed. The quarterly Sections Affected Index and Cumulative Index will be published in Issue 29 (July 15); Issue 42 (October 17); and Issue 3 (January 16, 1998). Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnatals@ccgate.sos.state.il.us (Internet address).

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